

WSR 08-19-022
PROPOSED RULES
SECRETARY OF STATE
 [Filed September 8, 2008, 11:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-103.

Title of Rule and Other Identifying Information: Chapter 434-12A WAC, Office of the secretary of state public records and rules of procedure.

Hearing Location(s): Office of the Secretary of State, Conference Room, 416 Sid Snyder Way, Olympia, WA 98504, on October 21, 2008, at 10:00 a.m.

Date of Intended Adoption: December 3, 2008.

Submit Written Comments to: Megan Moreno, P.O. Box 40220, Olympia, WA 98504-0220, e-mail mmoreno@secstate.wa.gov, fax (360) 586-5629, by October 24, 2008.

Assistance for Persons with Disabilities: Contact Megan Moreno by October 20, 2008, TTY (360) 422-8683.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amended rules will update and revise provisions related to requests for public records and provide an updated explanation of the organizational structure of the office.

Reasons Supporting Proposal: Rules contained in this chapter have not been updated since 1974. Rule making is also necessary in order to revise provisions related to requests for public records in order to reflect model rules on the subject developed by the attorney general pursuant to RCW 42.56.570. Provisions related to the organizational structure of the office of the secretary of state require updating.

Statutory Authority for Adoption: RCW 42.56.040.

Statute Being Implemented: Chapter 434-12A WAC.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Office of the secretary of state, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Brenda Galarza, P.O. Box 40224, Olympia, WA 98504, (360) 586-4556.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no fiscal impact associated with the changes proposed to chapter 434-12A WAC.

A cost-benefit analysis is not required under RCW 34.05.328. There is no fiscal impact associated with the changes proposed to chapter 434-12A WAC.

September 8, 2008

Steve Excell

Assistant Secretary of State

AMENDATORY SECTION (Amending Order 74-2, filed 2/19/74)

WAC 434-12A-010 Authority and purpose. ~~((The purpose of this chapter shall be to provide an official public record of the information required by RCW 42.17.250 to be adopted by the office of the secretary of state.))~~ (1) RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accor-

dance with published rules. The act defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.

(2) The purpose of these rules is to establish the procedures the office of the secretary of state will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the office of the secretary of state and establish processes for both requestors and secretary of state staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the office of the secretary of state will be guided by the provisions of the act describing its purposes and interpretation.

AMENDATORY SECTION (Amending Order 74-2, filed 2/19/74)

WAC 434-12A-030 Description of the organization of the office of the secretary of state. (1) The secretary of state's ~~((major activities are to:~~

~~(a) Serve as chief election officer under the provisions of RCW 29.04.070;~~

~~(b) Register and license all domestic and foreign, profit and nonprofit corporations, and record related filings;~~

~~(c) Act as repository for filings required or permitted under the Uniform Commercial Code;~~

~~(d) Register and attest to the official acts of the legislature and the governor;~~

~~(e) Affix the state seal and attest to commissions, pardons, and other public instruments to which the signature of the governor is required;~~

~~(f) Record conveyances made to the state, certified copies of franchises, or other papers filed in the office;~~

~~(g) Receive and file official bonds of those officers required by law to submit them to the secretary of state;~~

~~(h) Certify to the legislature all matters required by the law to be certified;~~

~~(i) Attest to and authenticate certificates and other documents issued by the secretary of state's office;~~

~~(j) Serve as an agent for official communications to the public disclosure commission and provide certain administrative services to that agency.~~

(2)) general duties are set forth in chapter 43.07 RCW, and relate generally to elections, the formation and maintenance of business organizations, charitable solicitations, charitable trusts, registration of domestic partnerships, archives and records management, the state library, and the address confidentiality program. Additional functions include regulating the use of the state seal, filing or attesting

to official acts of the legislature or governor, certifying to the legislature all matters legally required to be certified, issues apostilles, and other actions required or authorized by law. In addition to these constitutional and statutory duties, the secretary of state is frequently called upon to represent the state of Washington in international trade and cultural missions, and to greet and confer with dignitaries and delegations visiting the state of Washington from other countries.

(2) The functions of the secretary of state are performed through the following divisions and programs:

(a) The elections division, through which the secretary acts as the state's chief election officer;

(b) The corporations division, through which the secretary accepts filings as provided by law related to profit and nonprofit corporations and other forms of business organization, accepts registrations pursuant to the Charitable Solicitations Act and the Charitable Trust Act, accepts filings and issues licenses related to digital signatures, accepts registrations of domestic partnerships, and issues apostilles;

(c) The archives and records management division, through which the secretary provides services as required by law related to archives and records management;

(d) The Washington state library, providing library services to the public and state government and related services;

(e) The special programs division, which includes:

(i) The productivity board, which the secretary chairs and whose staff provides organizational support and which provides awards and incentives related to state employee brainstorm and teamwork incentive programs;

(ii) The address confidentiality program, for victims of domestic violence, sexual assault and stalking; and

(iii) The legacy project, which conducts, publishes and preserves oral histories of significant figures in Washington history.

(3) The offices of the secretary of state and their staff are located at:

(a) Main Administrative Office, Legislative Building, 416 Sid Snyder Way, P.O. Box 40220, Olympia, WA 98504-0220.

~~(b) ((Corporations Division, Legislative Building, Olympia.~~

~~(c) Uniform Commercial Code Section, Insurance Building, Olympia.~~

~~(d) Elections Division, Insurance Building, Olympia.~~

~~(3) The organizational chart, attached hereto as Appendix A, illustrates the general structure and organization of the staff of the secretary of state.)) Elections Division, 520 Union Ave. S.E., P.O. Box 40229, Olympia, WA 98504-0229;~~

~~(c) Corporations Division, 801 Capitol Way South, P.O. Box 40234, Olympia, WA 98504-0234;~~

~~(d) Archives and Records Management Division, 1129 Washington Street S.E., P.O. Box 40238, Olympia, WA 98504-0238. The archives and records management division also includes;~~

~~(i) The state records center, located at 7590 New Market Street S.W., Tumwater, WA, mailing address: P.O. Box 40239, Olympia, WA 98504-0239;~~

~~(ii) Regional archive facilities:~~

~~(A) Olympia Regional Branch, located at 1129 Washington Street S.E., P.O. Box 40238, Olympia, WA 98504-0238;~~

~~(B) Puget Sound Regional Branch, located at 3000 Landerholm Circle S.E., MS-N100, Bellevue, WA 98007-6484;~~

~~(C) Northwest Regional Branch, located at Western Washington University, MS-9123, Bellingham, WA 98225-9123;~~

~~(D) Central Branch, located at 400 E. University Way, Mail Stop 7547, Ellensburg, WA 98926-7547; and~~

~~(iii) The Washington State Digital Archives, and Eastern Washington Regional Branch, located at 960 Washington Street, Cheney, WA 99004;~~

~~(e) The Washington State Library, Point Plaza East, 6880 Capitol Blvd. South, Tumwater, P.O. Box 42460, Olympia, WA 98504-2460;~~

~~(f) The Productivity Board and Legacy Project, 6880 Capitol Blvd. South, Tumwater, P.O. Box 40224, Olympia, WA 98504-0224; and~~

~~(g) The Address Confidentiality Program, Legislative Building, P.O. Box 40220, Olympia, WA 98504-0220.~~

~~(4) Any person wishing to request access to public records of the office of the secretary of state, or seeking assistance in making such a request, should contact the public records officer by mail at P.O. Box 40224, Olympia, WA 98504-0224, or by fax at 360-586-4311, or by e-mail at Publicrecords@secstate.wa.gov. Information is also available at the secretary of state's web site, at www.secstate.wa.gov.~~

~~(5) The public records officer will oversee compliance with the act but another secretary of state staff member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and the office of the secretary of state will provide the fullest assistance to the requestor; create and maintain for use by the public and the office of the secretary of state an index to public records of the office by making available those records retention schedules applicable to the office of the secretary of state; and prevent fulfilling public records requests from causing excessive interference with essential functions of the office.~~

AMENDATORY SECTION (Amending Order 74-2, filed 2/19/74)

WAC 434-12A-040 Public records available. All public records of the office ((as defined in WAC 434-12-020(1) {434-12A-020(1)})) are deemed to be available for public inspection and copying pursuant to these rules ((except as provided by RCW 42.17.310 and WAC 434-12-110)) and applicable state law, as follows:

(1) Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the office of the secretary of state, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the office of the secretary of state. An appointment may be required.

(2) Records index. An index of public records is available for use by members of the public, consisting of those records retention schedules applicable to the office of the secretary of state.

(3) Organization of records. The office of the secretary of state will maintain its records in a reasonably organized

manner. The office will take reasonable actions to protect records from damage and disorganization. A requestor shall not take original records from the office. A variety of records are available on the secretary of state web site at www.sec.state.wa.gov. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) Making a request for public records.

(a) Any person wishing to inspect or obtain copies of public records of the office of the secretary of state should make the request in writing by letter, fax, or e-mail addressed to the public records officer and including the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any e-mail address;
- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Copies will be made by secretary of state staff unless other arrangements are agreed upon. Costs for copying are specified in WAC 434-12A-100.

(c) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing. The office will presume that the request is fully and accurately described in this confirmation unless the requestor promptly indicates otherwise in writing.

NEW SECTION

WAC 434-12A-045 Processing of public records requests—General. (1) **Providing "fullest assistance."** The office of the secretary of state is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer will do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- (c) Provide a reasonable estimate of when records will be available; or
- (d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided

by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) **Consequences of failure to respond.** If the office of the secretary of state does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(4) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(5) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the office of the secretary of state believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) Inspection of records.

(a) Consistent with other demands, the office of the secretary of state shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim or review the assembled records within thirty days of the office's notification to him or her that the records are available for inspection or copying. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the office of the secretary of state may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(7) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(8) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public

records officer or designee may stop searching for the remaining records and close the request.

(9) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the office of the secretary of state has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(10) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the office of the secretary of state has closed the request.

(11) **Later discovered documents.** If, after the office of the secretary of state has informed the requestor that it has provided all available records, the office becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

NEW SECTION

WAC 434-12A-055 Processing of public records requests—Electronic records. (1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are governed by WAC 434-12A-100.

(3) **Customized access to data bases.** With the consent of the requestor, the agency may provide customized access under RCW 43.105.280 if the record is not reasonably locatable or not reasonably translatable into the format requested. The office of the secretary of state may charge a fee consistent with RCW 43.105.280 for such customized access.

AMENDATORY SECTION (Amending Order 74-2, filed 2/19/74)

WAC 434-12A-100 Inspection and copying. (1) No fee shall be charged for the personal inspection of public records.

(2) Where an individual requests a copy, or a certified copy, of a document or instrument (~~which is not a public record, as that term is defined by RCW 42.17.020(24) and WAC 434-12-020(1) [434-12A-020(1)],~~ the office of the secretary of state shall charge a fee of:

~~(a) Fifty cents per page for the first ten pages and twenty-five cents per page thereafter for providing copies of corporation records;~~

~~(b) Five dollars per document for certified copies of profit corporation records;~~

~~(c) Two dollars plus fifty cents per page for certified copies of nonprofit corporation records;~~

~~(d) Four dollars for copies of statements listed to an individual debtor from Uniform Commercial Code records;~~

~~(e) Fifty cents per page for the first ten pages, and twenty-five cents per page for each additional page for a copy of any law, resolution, record or other document filed in the office of the secretary of state)) for which the cost of copies is not governed by chapter 42.56 RCW, the office of the secretary of state may charge fees specified pursuant to other law, including other chapters of this title.~~

~~(3) Where an individual requests a copy of a document or record for which ((is a public record, as that term is defined by RCW 42.17.020(24) and WAC 434-12-020(1) [434-12A-020(1)], and which has been filed with the office of the secretary of state pursuant to a specific statutory requirement to file such documents, the office of the secretary of state shall charge fifty cents per page for the first ten pages and twenty-five cents per page for each additional page of such document or record.~~

~~(4) Where an individual requests a copy of a document or record which is a public record, as that term is defined by RCW 42.17.020(24) and WAC 434-12-020(1) [434-12A-020(1)] but which has not been filed with the office of the secretary of state pursuant to a specific statutory requirement to file such documents, the office of the secretary of state shall charge a fee of ten cents per page for each page of such document or record. This charge is intended to reimburse the office of the secretary of state for a portion of the actual costs of copying, but not to exceed such actual costs.~~

~~(5) Where an individual requests to personally make a copy of a document or record referred to in subsection (3) or (4) of this section and the public records officer determines that this would not result in excessive interference with other essential functions of the agency, the charge shall be equal to the amount necessary to reimburse the office of the secretary of state for its actual costs incidental to such copying as determined by the public records officer of that section or division)) fees are established pursuant to chapter 42.56 RCW, a requestor may obtain standard black and white photocopies for fifteen cents per page. Copies in color or larger-sized documents will be based on the actual cost to reproduce them at the time of the request.~~

~~The Washington state archives research fees covered by WAC 434-690-080 are determined by archives according to its terms. The corporations fees are per WAC 434-112-085.~~

~~(4) Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The office of the secretary of state will not charge sales tax when it makes copies of public records.~~

~~(5) **Costs for electronic records.** The cost of electronic copies of records shall be five dollars for information on a CD-ROM or DVD. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee.~~

(6) **Costs of mailing.** The office of the secretary of state may also charge actual costs of mailing, including the cost of the shipping container.

(7) **Payment.** Payment may be made by cash, check, or money order to the office of the secretary of state, or by those credit or debit cards accepted by the office.

AMENDATORY SECTION (Amending Order 74-2, filed 2/19/74)

WAC 434-12A-110 Exemptions(~~and deletions, and denials~~). (1) The Public Records Act provides that a number of document types are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the office of the secretary of state for inspection and copying:

RCW 5.60.060(2) (attorney-client privilege, together with attorney work product privilege).

RCW 5.60.060(5) (communications to a public officer in official confidence).

RCW 5.60.070 (communications between a mediator and a party to mediation).

RCW 19.34.240 (digital signatures).

RCW 19.34.420 (digital signatures).

RCW 29A.08.710 through 29A.08.785 (voter registration records).

RCW 29A.32.100 (arguments and statements for voters pamphlet).

RCW 29A.60.080 (sealing of voting devices).

RCW 29A.60.110 (sealing of ballot containers).

RCW 40.14.030 (exempt records accessioned into state archives).

RCW 40.24.070 (address confidentiality program).

RCW 43.07.100 (records of entities supplying information to the bureau of statistics).

5 U.S.C. § 552(a) (the federal Privacy Act).

The foregoing list is for informational purposes only and failure to list an exemption shall not affect the efficacy of any exemption. The secretary of state reserves the right to determine that a public record ((requested in accordance with the procedures outlined in WAC 434-12-090 [434-12A-090])) is exempt under the provisions of ((RCW 42.17.310)) state law.

(2) ((In addition, pursuant to RCW 42.17.260 the secretary of state reserves the right to delete identifying details when he makes available or publishes any public record, in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW.

(3) All denials of requests for public records will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.)) The office of the secretary of state is prohibited by statute from disclosing lists of individuals for commercial purposes.

AMENDATORY SECTION (Amending Order 74-2, filed 2/19/74)

WAC 434-12A-120 Review of denials of public records request. ((1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by so indicating in the space provided for this purpose on the standard request form adopted by WAC 434-12-130 [434-12A-130] or by tendering a written request for review. The request for review shall specifically refer to, or be accompanied by, a copy of the written statement by the public records officer, or other staff member, which constituted or accompanied the denial.

(2) Immediately after receiving a request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the secretary of state, or in his absence, a designee of the secretary of state. The secretary of state or designee, as the case may be, shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the secretary of state or his designee has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever first occurs.)) (1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the assistant secretary of state or the deputy secretary of state. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the office's receipt of the petition, or within such other time as the office of the secretary of state and the requestor mutually agree to.

(3) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the office of the secretary of state denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

AMENDATORY SECTION (Amending Order 74-2, filed 2/19/74)

WAC 434-12A-150 Revolving fund. Pursuant to RCW 43.07.130, and subject to the current availability of such materials, the office of the secretary of state will supply any of the following items of printed matter to the public for a

charge equal to the costs of printing, reprinting, and distributing such printed matter:

- (1) Lists of active corporations;
- (2) The provisions of Title 23 RCW;
- (3) The provisions of Title 23A RCW;
- (4) The provisions of Title 24 RCW;
- (5) The provisions of chapter 25.10 RCW;
- (6) The provisions of Title 29 RCW;
- ~~((6) The provisions of Title 62A RCW;))~~
- (7) The provisions of chapter 18.100 RCW;
- (8) The provisions of chapter 19.77 RCW;
- (9) The provisions of chapter 43.07 RCW;
- (10) The provisions of the Washington state constitution;
- (11) The provisions of ((initiative measure 276 and rules and regulations adopted by the public disclosure commission)) chapters 40.14, 40.16, and 40.20 RCW, and any statutes, rules, schedules, indexes, guides, descriptions, or other materials related to the public records of state or local government or to the state archives; and

(12) Rules and ~~((regulations))~~ informational publications related to the statutory provisions set forth above.

Upon request, any person may receive a list of such printed matter currently available, the cost of each such item of printed matter, and instructions for ordering one or more items. The revenue derived in this manner shall be placed in the secretary of state's revolving fund.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-12A-020	Definitions.
WAC 434-12A-050	Office hours.
WAC 434-12A-060	Public records officer.
WAC 434-12A-070	Protection of public records.
WAC 434-12A-080	Records index.
WAC 434-12A-090	Requests for public records.
WAC 434-12A-130	Adoption of standard request form.
WAC 434-12A-140	Communications and submissions relating to public records.
WAC 434-12A-990	Appendix A—Form—Organization chart.
WAC 434-12A-99001	Appendix B—Form—Request for public record.

WSR 08-19-028
PROPOSED RULES
BUILDING CODE COUNCIL
 [Filed September 9, 2008, 10:30 a.m.]

Supplemental Notice to WSR 08-17-087.

Preproposal statement of inquiry was filed as WSR 08-14-041.

Title of Rule and Other Identifying Information: Amendment of chapter 51-50 WAC, further amendment of the 2006 Edition of the International Building Code (IBC).

Hearing Location(s): Holiday Inn Select Renton, One Grady Way South, Renton, WA, on November 14, 2008, at 10:00 a.m.

Date of Intended Adoption: November 14, 2008.

Submit Written Comments to: John Neff, Council Chair, P.O. Box 42525, Olympia, WA 98504-2525, e-mail sbcc@ctd.wa.gov, fax (360) 586-9383, by October 10, 2008.

Assistance for Persons with Disabilities: Contact Sue Mathers by November 7, 2008, TTY (360) 586-0772 or (360) 725-2966.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule incorporates one additional section, 1203, from the filing in WSR 08-17-087 to coordinate requirements for unvented attic assemblies found in the International Residential Code (see WSR 08-17-089) and the Washington State Energy Code (see WSR 08-17-086).

Reasons Supporting Proposal: RCW 19.27.031 and 19.27.074.

Statutory Authority for Adoption: RCW 19.27.031 and 19.27.074.

Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council is seeking comments on the issues proposed in the rules shown below.

Name of Proponent: Washington state building code council, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Tim Nogler, P.O. Box 42525, Olympia, WA 98504-2525, (360) 725-2969; and Enforcement: Local jurisdictions.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No disproportionate economic impact on small business was identified.

A cost-benefit analysis is not required under RCW 34.05.328. The state building code council is not listed in this section as one of the agencies required to comply with this statute.

August 26, 2008
 John P. Neff
 Council Chair

AMENDATORY SECTION (Amending WSR 08-01-110, filed 12/18/07, effective 4/1/08)

WAC 51-50-0200 Chapter 2—Definitions.

SECTION 202—DEFINITIONS.

ADULT FAMILY HOME. See Section 310.2.

AIR-IMPERMEABLE INSULATION. An insulation having an air permeance equal to or less than 0.02 L/s-m² at 75 Pa pres-

sure differential tested in accordance with ASTM E2178 or ASTM E283.

CHILD DAY CARE. See Section 310.2.

CHILD DAY CARE HOME, FAMILY. See Section 310.2.

NIGHTCLUB. An A-2 Occupancy use under the 2006 International Building Code in which the aggregate area of concentrated use of unfixed chairs and standing space that is specifically designated and primarily used for dancing or viewing performers exceeds three hundred fifty square feet, excluding adjacent lobby areas. "Nightclub" does not include theaters with fixed seating, banquet halls, or lodge halls.

PORTABLE SCHOOL CLASSROOM. See Section 902.1.

RESIDENTIAL CARE/ASSISTED LIVING FACILITIES. See Section 310.2. This definition is not adopted.

STORY. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above, including basements (also see "Mezzanine" and Section 502.1). It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

STORY ABOVE GRADE PLANE. Any story having its finished floor surface entirely above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor or roof next above the basement is:

1. More than 6 feet (1829 mm) above grade plane; or
2. More than 12 feet (3658 mm) above the finished ground level at any point.

AMENDATORY SECTION (Amending WSR 07-01-091, filed 12/19/06, effective 7/1/07)

WAC 51-50-0407 Section 407—Group I-2.

~~((407.8 Locks on exit doors. Approved, listed locks without delayed egress shall be permitted in nursing homes or portions of nursing homes, provided that:~~

- ~~1. The clinical needs of one or more patients require specialized security measures for their safety.~~
- ~~2. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.~~
- ~~3. The doors unlock upon loss of electrical power controlling the lock or lock mechanism.~~
- ~~4. The lock shall be capable of being deactivated by a signal from a switch located in an approved location.~~
- ~~5. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.))~~

NEW SECTION

WAC 51-50-0420 Section 419—Group I-1, R-1, R-2, R-3.

419.4 Subdivision of building spaces—Smoke barriers. Smoke barriers complying with Section 709 shall be installed on floors other than the level of exit discharge of a Group R-2 residential treatment facility licensed by the state of Washington, and on all floors of a Group R-2 boarding home licensed by the state of Washington where a fire-resistance rated corridor is required by Table 1017.1. The smoke barrier shall subdivide the floor into at least two compartments complying with Section 407.4.

419.5 Corridor construction. In Group R-2 boarding homes and residential treatment facilities licensed by the state of Washington, rest areas constructed as required for corridors shall be allowed to be open to the corridor provided:

1. The area does not exceed 150 square feet, excluding the corridor width;
2. The floor is separated into at least two compartments complying with Section 407.4;
3. Combustible furnishings located within the rest area shall be in accordance with the International Fire Code Section 805; and
4. Emergency means of egress lighting is provided as required by Section 1006 to illuminate the area.

AMENDATORY SECTION (Amending WSR 08-01-110, filed 12/18/07, effective 4/1/08)

WAC 51-50-0903 Section 903—Automatic sprinkler systems.

903.2.1.6 Nightclub. An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code. An existing nightclub constructed prior to July 1, 2006, shall be provided with automatic sprinklers not later than December 1, 2009.

903.2.2 Group E. An automatic sprinkler system shall be provided for Group E Occupancies.

EXCEPTIONS:

1. Portable school classrooms, provided aggregate area of any cluster or portion of a cluster of portable school classrooms does not exceed 5,000 square feet (1465 m²); and clusters of portable school classrooms shall be separated as required in chapter 5 of the building code.
2. Group E Occupancies with an occupant load of 50 or less.

903.2.7 Group R. An automatic fire sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area. Sprinkler systems in boarding homes licensed by the state of Washington shall comply with Section 903.3.1.1.

EXCEPTION: Group R-1 if all of the following conditions apply:

1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is only one story.
3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.

7. A hand held (portable) fire extinguisher is in every Group R fire area.

NEW SECTION

WAC 51-50-0907 Section 907—Fire alarm and detection systems.

907.2.9.1 Group R-2 boarding homes. A manual fire alarm system shall be installed in Group R-2 Occupancies where the building contains a boarding home licensed by the state of Washington.

EXCEPTION: In boarding homes licensed by the state of Washington, manual fire alarm boxes in resident sleeping areas shall not be required at exits if located at all constantly attended staff locations, provided such staff locations are visible, continuously accessible, located on each floor, and positioned so no portion of the story exceeds a horizontal travel distance of 200 feet to a manual fire alarm box.

AMENDATORY SECTION (Amending WSR 07-01-091, filed 12/19/06, effective 7/1/07)

WAC 51-50-1008 Section 1008—Doors, gates and turnstiles.

1008.1.2 Door swing. Egress doors shall be side-hinged swinging.

- EXCEPTIONS:
1. Private garages, office areas, factory and storage areas with an occupant load of 10 or less.
 2. Group I-3 Occupancies used as a place of detention.
 3. Critical or intensive care patient rooms within suites of health care facilities.
 4. Doors within or serving a single dwelling unit in Groups R-2 and R-3 .
 5. In other than Group H Occupancies, revolving doors complying with Section 1008.1.3.1.
 6. In other than Group H Occupancies, horizontal sliding doors complying with Section 1008.1.3.3 are permitted as a means of egress.
 7. Power-operated doors in accordance with Section 1008.1.3.2.
 8. Doors serving a bathroom within an individual sleeping unit in Group R-1.
 9. In other than Group H Occupancies, manually operated horizontal sliding doors are permitted in a means of egress from occupied spaces with an occupant load of 10 or less.

Doors shall swing in the direction of egress travel where serving an occupant load of 50 or more persons or a Group H Occupancy.

The opening force for interior side-swinging doors with-out closers shall not exceed a 5-pound (22 N) force. For other side-swinging, sliding, and folding doors, the door latch shall release when subjected to a 15-pound (67 N) force. The door shall be set in motion when subjected to a 30-pound (133 N) force. The door shall swing to a full-open position when subjected to a 15-pound (67 N) force. Forces shall be applied to the latch side.

1008.1.8.3 Locks and latches. Locks and latches shall be permitted to prevent operation of doors where any of the following exists:

1. Places of detention or restraint.
2. In buildings in occupancy Group A having an occupant load of 300 or less, Groups B, F, M and S, and in places of religious worship, the main exterior door or doors are per-

mitted to be equipped with key-operated locking devices from the egress side provided:

2.1 The locking device is readily distinguishable as locked;

2.2 A readily visible durable sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED. The sign shall be in letters 1 inch (25 mm) high on a contrasting background; and

2.3 The use of the key-operated locking device is revocable by the fire code official for due cause.

3. Where egress doors are used in pairs, approved automatic flush bolts shall be permitted to be used, provided that the door leaf having the automatic flush bolts has no door-knob or surface-mounted hardware.

4. Doors from individual dwelling or sleeping units of Group R Occupancies having an occupant load of 10 or less are permitted to be equipped with a night latch, dead bolt or security chain, provided such devices are openable from the inside without the use of a key or tool.

5. Approved, listed locks without delayed egress shall be permitted in nursing homes or portions of nursing homes, and boarding homes licensed by the state of Washington, provided that:

5.1 The clinical needs of one or more patients require specialized security measures for their safety;

5.2 The doors unlock upon actuation of the automatic sprinkler systems or automatic fire detection system;

5.3 The doors unlock upon loss of electrical power controlling the lock or lock mechanism;

5.4 The lock shall be capable of being deactivated by a signal from a switch located in an approved location; and

5.5 There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.

AMENDATORY SECTION (Amending WSR 07-01-091, filed 12/19/06, effective 7/1/07)

WAC 51-50-1017 Corridors.

~~((1017.1 Construction. Corridors shall be fire-resistance rated in accordance with Table 1017.1. The corridor walls required to be fire-resistance rated shall comply with Section 708 for fire partitions.~~

- EXCEPTIONS:
1. A fire-resistance rating is not required for corridors in an occupancy in Group E where each room that is used for instruction has at least one door directly to the exterior and rooms for assembly purposes have at least one-half of the required means of egress doors opening directly to the exterior. Exterior doors specified in this exception are required to be at ground level.
 2. A fire-resistance rating is not required for corridors contained within a dwelling or sleeping unit in an occupancy in Group R.
 3. A fire-resistance rating is not required for corridors in open parking garages.
 4. A fire-resistance rating is not required for corridors in an occupancy in Group B which is a space requiring only a single means of egress complying with Section 1015.1.
 5. In Group R-2 boarding homes and residential treatment facilities licensed by Washington state, rest areas

constructed as required for corridors shall be allowed to be open to the corridor provided:

- 5.1 The area does not exceed 150 square feet, excluding the corridor width;
- 5.2 The floor is separated into at least two compartments complying with Section 407.4;
- 5.3 Combustible furnishings located within the rest area shall be in accordance with the International Fire Code section 805;
- 5.4 Emergency means of egress lighting is provided as required by Section 1006 to illuminate the area.))

1017.4 Air movement in corridors. Corridors shall not serve as supply, return, exhaust, relief or ventilation air ducts.

- EXCEPTIONS:
1. Use of a corridor as a source of makeup air for exhaust systems in rooms that open directly onto such corridors, including toilet rooms, bathrooms, dressing rooms, smoking lounges and janitor closets, shall be permitted provided that each such corridor is directly supplied with outdoor air at a rate greater than the rate of makeup air taken from the corridor.
 2. Where located within a dwelling unit, the use of corridors for conveying return air shall not be prohibited.
 3. Where located within tenant spaces of one thousand square feet (93 m²) or less in area, utilization of corridors for conveying return air is permitted.
 4. Where such air is part of an engineered smoke control system.
 5. ((Make-up)) Makeup or relief air in corridors of Group ((I-2)) I-2 Occupancies.
 6. Corridors serving residential occupancies shall be permitted to be supplied without specific mechanical exhaust subject to the following:
 - 6.1 The supply air is one hundred percent outside air; and
 - 6.2 The units served by the corridor have conforming ventilation independent of the air supplied to the corridor; and
 - 6.3 For other than high-rise buildings, the supply fan will automatically shut off upon activation of corridor smoke detectors which shall be spaced at no more than thirty feet (9,144 mm) on center along the corridor; or
 - 6.4 For high-rise buildings, corridor smoke detector activation will close required smoke/fire dampers at the supply inlet to the corridor at the floor receiving the alarm.

~~((1017.6 Subdivision of building spaces—Smoke barriers. Smoke barriers complying with Section 709 shall be installed on floors other than the level of exit discharge of a Group R-2 boarding home or residential treatment facility licensed by Washington state, where a fire-resistance rated corridor is required by Table 1017.1. The smoke barrier shall subdivide the floor into at least two compartments complying with Section 407.4.))~~

AMENDATORY SECTION (Amending WSR 04-01-108, filed 12/17/03, effective 7/1/04)

WAC 51-50-1203 Section 1203—Ventilation.

1203.1 General. Buildings shall be provided with natural ventilation in accordance with Section 1203.4, or mechanical ventilation in accordance with the *International Mechanical Code* and the Washington State Ventilation and Indoor Air Quality Code.

1203.2 Attic spaces. Enclosed attics and enclosed rafter spaces formed where ceilings are applied directly to the underside of roof framing members shall have cross ventilation for each separate space by ventilating openings protected against the entrance of rain and snow. Blocking and bridging

shall be arranged so as not to interfere with the movement of air. A minimum of 1 inch (25 mm) of airspace shall be provided between the insulation and the roof sheathing. The net free ventilating area shall not be less than 1/150 of the area of the space ventilated, with 50 percent of the required ventilating area provided by ventilators located in the upper portion of the space to be ventilated at least 3 feet (914 mm) above eave or cornice vents with the balance of the required ventilation provided by eave or cornice vents.

- EXCEPTIONS:**
1. The minimum required net free ventilating area shall be 1/300 of the area of the space ventilated, provided a vapor retarder having a transmission rate not exceeding 1 perm in accordance with ASTM E 96 is installed on the warm side of the attic insulation and provided 50 percent of the required ventilating area provided by ventilators located in the upper portion of the space to be ventilated at least 3 feet (914 mm) above eave or cornice vents, with the balance of the required ventilation provided by eave or cornice vents.
 2. Unvented attic assemblies (spaces between the ceiling joists of the top story and the roof rafters) shall be permitted if all the following conditions are met:
 - 2.1 The unvented attic space is completely contained within the building thermal envelope.
 - 2.2 No interior vapor retarders are installed on the ceiling side (attic floor) of the unvented attic assembly.
 - 2.3 Where wood shingles or shakes are used, a minimum 1/4 inch (6 mm) vented air space separates the shingles or shakes and the roofing underlayment above the structural sheathing.
 - 2.4 Any air-impermeable insulation shall be a vapor retarder, or shall have a vapor retarder coating or covering in direct contact with the underside of the insulation.
 - 2.5 Either items a, b, or c below shall be met, depending on the air permeability of the insulation directly under the structural roof sheathing.
 - a. Air-impermeable insulation only. Insulation shall be applied in direct contact to the underside of the structural roof sheathing.
 - b. Air-permeable insulation only. In addition to the air-permeable insulation installed directly below the structural sheathing, rigid board or sheet insulation shall be installed directly above the structural roof sheathing as specified per WA Climate Zone for condensation control.
 - i. Climate Zone #1 - R-10 minimum rigid board or air-impermeable insulation R-value.
 - ii. Climate Zone #2 - R-25 minimum rigid board or air-impermeable insulation R-value.
 - c. Air-impermeable and air-permeable insulation. The air-impermeable insulation shall be applied in direct contact to the underside of the structural roof sheathing as specified per WA Climate Zone for condensation control. The air-permeable insulation shall be installed directly under the air-impermeable insulation.
 - i. Climate Zone #1 - R-10 minimum rigid board or air-impermeable insulation R-value.
 - ii. Climate Zone #2 - R-25 minimum rigid board or air-impermeable insulation R-value.

1203.4 Natural ventilation. For other than Group R Occupancies in buildings four stories and less, natural ventilation of an occupied space shall be through windows, doors, louvers or other openings to the outdoors. The operating mechanism for such openings shall be provided with ready access so that the openings are readily controllable by the building occupants. Group R Occupancies in buildings four stories and less shall comply with the Washington State Ventilation and Indoor Air Quality Code.

WSR 08-19-044
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed September 11, 2008, 10:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-13-048.

Title of Rule and Other Identifying Information: The community services division is proposing to amend WAC 388-448-0030 What medical evidence do I need to provide? and 388-448-0040 Progressive evaluation process (PEP) step I—Review of medical evidence required for eligibility determination.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on October 21, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 22, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on October 21, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by October 14, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing amendments to the description of medical evidence requirements needed to determine incapacity.

Reasons Supporting Proposal: These changes are needed to clarify and align the medical evidence rules with the intent of RCW 74.04.005.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.005, 74.04.050, 74.04.055, 74.04.057.

Statute Being Implemented: RCW 74.08.090, 74.04.005, 74.04.050, 74.04.055, 74.04.057.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Melissa Mathson, 712 Pear Street S.E., Olympia, WA 98503, (360) 725-4563.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by clarifying the description of medical evidence requirements to determine incapacity.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and

health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

September 11, 2008

Stephanie E. Schiller

Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-07-140, filed 3/22/04, effective 5/1/04)

WAC 388-448-0030 What medical evidence do I need to provide? You must provide medical evidence that clearly ~~((explains if))~~ shows you have an impairment and how that impairment prevents you from being ~~((capable of gainful employment))~~ able to work. Medical evidence must be in writing and be clear, objective and ~~((complete))~~ sufficient to complete an incapacity determination.

(1) Objective evidence for physical impairments means:

(a) ~~((For physical impairment:~~

~~((i)))~~ Laboratory test results;

~~((ii)))~~ (b) Pathology reports;

~~((iii)))~~ (c) Radiology findings including results of X rays and computer imaging scans;

~~((iv)))~~ (d) Clinical finding, including but not limited to

ranges of joint motion, blood pressure, temperature or pulse((:)), and ((observations from)) documentation of a physical examination; ((e))

~~((v)))~~ (e) Hospital history and physical reports and admission and discharge summaries; or

~~((vi)))~~ (f) Other medical history and physical reports related to your current impairments.

~~((b))~~ For mental impairment:

~~((i))~~ Examination results including:

~~((A)))~~ (2) Objective evidence for mental impairments means:

(a) Clinical interview observations, including objective mental status exam results and interpretation; and

~~((B)))~~ (b) Explanation of how examination findings meet the clinical and diagnostic criteria of the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

~~((C)))~~ (c) Hospital, outpatient and other treatment records related to your current impairments.

(d) Testing results, if any, including:

~~((A)))~~ (i) Description and interpretation of tests of memory, concentration, cognition or intelligence; or

~~((B)))~~ (ii) Interpretation of medical tests to identify or exclude a connection between the mental impairment and physical illness.

~~((2))~~ To be complete, medical evidence)) (3) Medical records sufficient for an incapacity determination must include:

(a) A diagnosis for the impairment, or impairments, based on an examination performed by a medical professional described in WAC 388-448-0020 within twelve months of application;

(b) Documentation of how the impairment, or impairments, is currently limiting your ability to work based on an examination:

(i) By a medical professional described in WAC 388-448-0020; and

(ii) Performed within the ninety days of the date of application or the forty-five days before the month of incapacity review.

(c) A clear description of how ~~((the))~~ each impairment relates to your ability to perform the work-related activities listed in WAC 388-448-0010(5) ~~((including signs and observations of drug or alcohol abuse and whether any limitations on ability to perform work-related activities would continue after sixty days of abstinence from use of drugs or alcohol));~~

~~((e))~~ (d) Facts in addition to objective evidence to support the medical provider's opinion that you are unable to be gainfully employed, such as proof of hospitalization~~((; and~~

~~(d) Based on an examination done within the ninety days of the date of application or the forty-five days prior to the month of incapacity review)).~~

~~((3))~~ (4) When making an incapacity decision, we do not use your report of symptoms as evidence unless objective evidence shows there is an impairment that could reasonably be expected to produce those symptoms.

~~((4))~~ (5) We don't use diagnosis or symptoms of substance abuse or addiction when determining incapacity.

(6) We may use a diagnosis of a permanent impairment that is the result of substance abuse or addiction.

(7) If you ~~((cannot get))~~ can't obtain medical evidence of an impairment that prevents you from working without cost to you, and you meet the eligibility conditions other than incapacity in WAC 388-400-0025, we pay the costs to obtain objective evidence based on our published payment limits and ~~((designated))~~ fee schedules.

~~((5))~~ (8) We decide incapacity based solely on the objective information we receive. We are not obligated to accept a decision that you are incapacitated or unemployable made by another agency or person.

(9) We can't accept a statement that you are incapacitated from a medical professional unless the statement is supported by objective medical evidence.

AMENDATORY SECTION (Amending WSR 00-16-113, filed 8/2/00, effective 9/1/00)

WAC 388-448-0040 PEP step I—Review of medical evidence required for eligibility determination. When we receive your medical evidence, we review it to see if it is ~~((complete and))~~ sufficient to decide whether your circumstances match GAU program requirements.

(1) We require a written medical report to determine incapacity. The report must:

(a) Contain sufficient information as described under WAC 388-448-0030;

(b) Be written by an authorized medical professional described in WAC 388-448-0020;

(c) Document the existence of a potentially incapacitating condition; and

(d) Indicate an impairment is expected to last ninety days or more from the application date.

(2) If the information received ~~((is not))~~ isn't clear, we may require more information before we decide your ability to be gainfully employed. As examples, we may require you to get more medical tests or be examined by a medical specialist.

(3) We deny incapacity ~~((when))~~ if:

(a) There is only one impairment ~~((with a))~~ and the severity rating is less than three;

(b) A reported impairment ~~((is not))~~ isn't expected to last ninety days (twelve weeks) or more from the date of application;

~~((The practitioner is not able to determine that the physical or mental impairment would remain incapacitating after at least sixty days of abstinence from alcohol and drugs))~~ The only impairment supported by objective medical evidence is drug or alcohol addiction; or

(d) We ~~((do not))~~ don't have clear and objective medical evidence to approve incapacity.

WSR 08-19-057

PROPOSED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed September 12, 2008, 12:01 p.m.]

Supplemental Notice to WSR [08-14-155].

Preproposal statement of inquiry was filed as WSR 08-10-004.

Title of Rule and Other Identifying Information: Amendments to WAC 390-05-515 Member. This rule describes when a communication to a "member" as that term is used in chapter 42.17 RCW, the public disclosure commission statutes, including RCW 42.17.020 and 42.17.100, is an internal political communication and not a contribution.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA 98504, on December 4, 2008, at 9:30 a.m.

Date of Intended Adoption: December 4, 2008.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, e-mail dellis@pdc.wa.gov, fax (360) 753-1112, by November 24, 2008.

Assistance for Persons with Disabilities: Contact Nicole Stauffer by phone (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amendments to WAC 390-05-515 are needed to more specifically address (and exclude) entities that describe their customers as "members" but their relationship is more akin to that of seller-buyer and to provide an additional factor to determine membership.

Reasons Supporting Proposal: To provide guidance and clarification regarding the public disclosure law to entities with "members."

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The amended rules are designed to clarify the definition of "member" for purposes of public disclosure.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The public disclosure commission (PDC) is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to the adoption of these rules pursuant to subsection (5)(a)(i) of section 201, and, to date, JARRC has not made section 201 application [applicable] to the adoption of these rules.

September 11, 2008
Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 06-11-132, filed 5/23/06, effective 6/23/06)

WAC 390-05-515 Member. In determining whether a communication is to a "member" as that term is used in RCW 42.17.020 and 42.17.100, and for the purposes of RCW 42.17.105(8) (~~and~~), 42.17.640 and 42.17.645:

(1) The commission will examine whether the organization is a legitimate membership organization with common interest goals and objectives, taking into account such factors as the organization's permanence, structure and whether it has formal organizing documents, membership criteria and services it provides its members.

(2) With respect to the status of members of an organization, the commission will examine whether a valid, active relationship exists between the organization and its members or classes of members for purposes other than influencing the outcome of an election, taking into account such factors as whether the members affirmatively accept membership and the rights and obligations conferred on members by the organization including whether members have the right to vote for:

- (a) Election of directors or officers; or
- (b) Changes to the articles or bylaws; or
- (c) The disposition of all or substantially all of the assets of the organization or on a merger or dissolution.

A required payment of a predetermined amount of membership dues is also a factor; however, an organization will not be considered a membership organization if it is primarily a commercial entity or for-profit entity selling products to customers even though it may refer to its customers as "members."

(3) If a membership organization and its members satisfy the criteria regarding "membership associations" and "members" established by the Federal Election Commission (FEC) in 11 C.F.R. Sec. 100.134 (e)-(g), the commission will consider the organization and its members as qualifying for the exemption in RCW 42.17.020 (15)(b)(v) and (21)(g), unless the communication was not sent primarily to members. However, these FEC criteria are not the only indicators of legitimate membership organizations or valid members, a determination that will be made by the commission on a case-by-case basis as necessary.

(4) In determining whether an internal political communication is "primarily" limited to the members of an organization or political committee, the commission will consider whether any distribution to nonmembers is incidental and isolated.

WSR 08-19-063
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed September 15, 2008, 12:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-16-139.

Title of Rule and Other Identifying Information: Chapter 392-101 WAC, Superintendent of public instruction—Administrative practices and procedures.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), P.O. Box 47200, 600 Washington Street, Olympia, WA 98504, on October 27, 2008, at 8:30 a.m.

Date of Intended Adoption: October 28, 2008.

Submit Written Comments to: Charles Schreck, Director, P.O. Box 47200, Olympia, WA 98504-7200, e-mail Charles.Schreck@k12.wa.us, fax (360) 753-4201, by October 24, 2008.

Assistance for Persons with Disabilities: Contact Penny Coker by October 24, 2008, TTY (360) 664-3631 or (360) 725-6142.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to include bus driver authorization appeals to the WAC.

Statutory Authority for Adoption: RCW 34.05.220.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: [(OSPI)], governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Charles Schreck, OSPI, (360) 725-6130.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328.

September 10, 2008
Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 91-17, filed 8/23/91, effective 9/23/91)

WAC 392-101-010 Conduct of administrative hearings. The superintendent of public instruction hereby assigns the following administrative hearings to the office of administrative hearings and hereby delegates to the administrative law judge conducting any such hearing the authority to ren-

der the final decision by the superintendent of public instruction:

(1) Nonresident transfer appeals pursuant to WAC 392-137-055(2).

(2) Special education hearings pursuant to WAC 392-171-531.

(3) Equal educational opportunity complaints pursuant to WAC 392-190-075.

(4) Professional certification appeals pursuant to WAC 180-75-030.

(5) Child care food program and summer food service program appeals pursuant to 7 C.F.R. Parts 225 and 226.

(6) Traffic safety education appeals pursuant to WAC 392-153-005 through 392-153-040.

(7) Bus driver authorization appeals pursuant to chapter 392-144 WAC.

WSR 08-19-064
PROPOSED RULES
DEPARTMENT OF
NATURAL RESOURCES
[Filed September 15, 2008, 1:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-23-074.

Title of Rule and Other Identifying Information: WAC 332-130-120 Definitions and 332-130-110 Redundancy standards.

Hearing Location(s): Department of Natural Resources, Room 371, 1111 Washington Street S.E., Olympia, WA 98504, on November 7, 2008, at 10:00 a.m.; and at Conference Room 2B, Spokane County Public Works Building, 1026 West Broadway Avenue, Spokane, WA 99260, on October 24, 2008, at 10:00 a.m.

Date of Intended Adoption: December 5, 2008.

Submit Written Comments to: Gwen Roy, PLS, 1111 Washington Street S.E., P.O. Box 47030, Olympia, WA 98504-7030, e-mail sab@dnr.wa.gov, fax (360) 902-1191, by November 14, 2008.

Assistance for Persons with Disabilities: Contact the department of natural resources by October 17, 2008, TTY (360) 902-1156.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal creates WAC 332-130-110 and amends WAC 332-130-120.

Reasons Supporting Proposal: To clarify and create consistency in the standards of practice and methods of procedure of land surveying and to protect with [the] public by requiring all land surveys contain redundancy and procedural checks for errors.

Statutory Authority for Adoption: RCW 58.24.030, 58.24.040, 58.09.050, and 58.17.160.

Statute Being Implemented: RCW 58.24.020.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fis-

cal Matters: The survey advisory board together with department of natural resources and the board of registration for professional engineers and land surveyors have worked together to create this WAC. This standard of practice and method of procedure is considered necessary to protect the public and ensure accuracy in performing land surveys.

Name of Proponent: Survey advisory board, public.

Name of Agency Personnel Responsible for Drafting and Implementation: Gwen Roy, 1111 Washington Street S.E., Olympia, WA 98504-0703, (360) 902-1181; and Enforcement: George Twiss, 405 Black Lake Boulevard, Olympia, WA 98502, (360) 664-1565.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The procedure of redundant measurements in the practice of land surveying is considered necessary to achieve accuracy. An economic impact statement is not required because following this rule will be less than a minor cost to business and will actually result in monetary savings over the longer term.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required because this rule does not meet the requirements of significant legislative rule under RCW 34.05.328 (5)(c)(iii).

September 8, 2008

Bruce Mackey

Lands Steward

AMENDATORY SECTION (Amending WSR 05-13-104, filed 6/17/05, effective 7/18/05)

WAC 332-130-020 Definitions. The following definitions shall apply to this chapter:

(1) **Local geodetic control surveys:** Surveys for the specific purpose of establishing control points for extending the National Geodetic Survey horizontal and vertical control nets, also known as the National Spatial Reference System (NSRS), but not submitted to the National Geodetic Survey for inclusion in the NSRS.

(2) **GLO and BLM:** The General Land Office and its successor, the Bureau of Land Management.

(3) **Land boundary surveys:** All surveys, whether made by individuals, entities or public bodies of whatever nature, for the specific purpose of establishing, reestablishing, laying out, subdividing, defining, locating and/or monumenting the vertical or horizontal boundary of any easement, right of way, lot, tract, or parcel of real property or which reestablishes or restores General Land Office or Bureau of Land Management survey corners.

(4) **Land corner record:** The record of corner information form as prescribed by the department of natural resources in WAC 332-130-025.

(5) **Land description:** A description of real property or of rights associated with real property.

(6) **Land surveyor:** Any person authorized to practice the profession of land surveying under the provisions of chapter 18.43 RCW.

(7) **Measurement redundancy:** To perform sufficient measurements to reduce or isolate blunders and statistically improve measurement accuracy.

(8) **NAD83:** North American Datum of 1983 as designated by chapter 58.20 RCW.

~~((8))~~ (9) **Parcel:** A part or portion of real property including but not limited to GLO and BLM segregations, easements, rights of way, aliquot parts of sections or tracts.

~~((9))~~ (10) **Survey Recording Act:** The law as established and designated in chapter 58.09 RCW.

~~((10))~~ (11) **Washington coordinate system:** The system of plane coordinates as established and designated by chapter 58.20 RCW.

NEW SECTION

WAC 332-130-110 Closure and redundancy. The following standards shall apply to geodetic surveys and land boundary surveys.

All land surveys shall contain procedures, measurement and redundancy and closure checks sufficient to detect errors and blunders and to ensure that the survey standards, chapter 332-130 WAC have been met.

WSR 08-19-065 PROPOSED RULES

HEALTH CARE AUTHORITY

[Order 08-02—Filed September 15, 2008, 1:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-08-051.

Title of Rule and Other Identifying Information: The Washington health insurance partnership (HIP) program, established in chapter 70.47A RCW.

Hearing Location(s): Health Care Authority, Sue Crystal Center, 676 Woodland Square Loop S.E., Lacey, WA 98503, on October 24, 2008, at 10:00 a.m.

Date of Intended Adoption: October 31, 2008.

Submit Written Comments to: Bob Longhorn, P.O. Box 42707, Olympia, WA 98501, e-mail robert.longhorn@hca.wa.gov, fax (360) 923-2613, by October 24, 2008.

Assistance for Persons with Disabilities: Contact Nikki Johnson by October 10, 2008, TTY (888) 923-5622 or (360) 923-2805.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The HIP is a new program designed to assist small employers and their low-wage employees to access health insurance coverage. These rules are necessary for the health care authority to implement the program. There are no changes to existing rules contained in this proposal.

Reasons Supporting Proposal: The health care authority must adopt these rules in accordance with RCW 70.47A.060.

Statutory Authority for Adoption: RCW 70.47A.060.

Statute Being Implemented: Chapter 70.47A RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Bob Longhorn, 676 Woodland Square Loop S.E., Lacey, WA 98503, (360) 923-2739; Implementation and Enforcement:

Beth Walter, 676 Woodland Square Loop S.E., Lacey, WA 98503, (360) 923-2942.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative rules review committee has not requested the filing of a small business economic impact statement, and there will be no costs to small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to the health care authority rules unless requested by the joint administrative rules [review] committee or applied voluntarily.

September 15, 2008

Jason Siems

Rules Coordinator

Chapter 182-26 WAC

WASHINGTON HEALTH INSURANCE PARTNERSHIP (HIP) PROGRAM

NEW SECTION

WAC 182-26-010 Authority. The administrator's authority to make rules is contained in RCW 70.47A.060.

NEW SECTION

WAC 182-26-020 Definitions—Generally. Unless the context clearly indicates otherwise, the definitions in Part 1 of this chapter apply throughout this chapter.

PART 1 DEFINITIONS

NEW SECTION

WAC 182-26-100 Definitions. "Administrator" means the administrator of the Washington state health care authority established under chapter 41.05 RCW.

"Appeal" means a formal written request to the HIP or its designee for resolution of problems or concerns that cannot be resolved informally. For the purposes of this chapter, "appeal" applies only to HIP decisions regarding subsidy determinations and employer eligibility for the HIP.

"Applicant" means:

- An individual who applies for a premium subsidy through the HIP on behalf of the individual and his or her dependents; or

- A partnership participant who applies or reapplies for premium subsidy through the HIP on behalf of the partnership participant and his or her dependents during the annual subsidy application and renewal period as described in WAC 182-26-320.

"Application" means a form developed by the administrator that an applicant must sign, complete, and submit to the administrator to apply for a premium subsidy through the HIP. To be considered complete, the application must be accompanied by all supporting documents as required and determined by the administrator.

"Benchmark health benefit plan" or "benchmark plan" means a health benefit plan selected by the board and upon which the subsidy scale shall be determined and from which the administrator will calculate a partnership participant's premium subsidy.

"Board" or "HIP board" means the health insurance partnership board established under RCW 70.47A.100.

"Carrier" or "insurance carrier" means the same as defined in RCW 48.43.005(18).

"The department of social and health services" or "DSHS" means the department of social and health services as defined in RCW 43.20A.020.

"Dependent," for the purpose of determining subsidy eligibility, "dependent" means:

(1) A partnership participant's lawful spouse, not legally separated, who shares a home with the partnership participant; or

(2) The unmarried child of the partnership participant or participant's dependent spouse, whether by birth, adoption, legal guardianship, or placement pending adoption, and not given up for adoption, who is:

(a) Younger than age twenty-five; or

(b) Is of any age, is not able to take care of himself or herself due to disability, and is under legal guardianship of the partnership participant or the participant's dependent spouse.

(3) A dependent may be placed on only one HIP account at any given time.

"Designated health benefit plan" means a health benefit plan selected by the board as eligible for offer through the HIP.

"Disenroll" or "disenrollment" means the termination of a partnership participants' enrollment in the HIP program. Decisions regarding eligibility or enrollment status for insurance coverage will be made by the carrier.

"Eligible partnership participant" means a partnership participant who:

- Is a resident of the state of Washington;

- Has a family income that does not exceed two hundred percent of the federal poverty level, as determined annually by the federal Department of Health and Human Services; and

- Is a health plan eligible employee as defined in this section that is enrolled or is applying to enroll in the participating small employer's offered coverage.

"Employee" has the same meaning as defined in RCW 48.43.005.

"Employer agreement" means a form developed by the administrator that a small employer must complete and submit to the administrator to request enrollment in the HIP.

"Health insurance partnership" or "HIP" means the health insurance partnership established in RCW 70.47A.-030.

"Health plan eligible employee" means an individual who meets the participating small employer's enrollment criteria.

"HIP account" means an account maintained by the administrator for each partnership participant that includes but is not limited to:

- Demographic information for participants and dependents, if any;
- Subsidy status;
- Carrier and plan enrollment status; and
- Other information as required by the administrator.

"Income" or "family gross income" means total cash receipts, as defined in WAC 182-26-345, before taxes, for participants and all dependents.

"Individual health benefit plan selection." Reserved.

The "office of the insurance commissioner" or "OIC" means the insurance commissioner as defined in RCW 48.02.010.

"Open enrollment" means a designated time period during which partnership participants may enroll additional dependents or make other changes to their employer-sponsored health benefit plan coverage.

"Participating small employer" means a small employer who:

- Enters into a written agreement with the HIP to purchase a designated health benefit plan through the HIP;

- Attests at the date of the agreement that the employer does not currently offer coverage, including insurance purchased through the small group and association health plan markets, self-funded plans, and multiple employer welfare arrangements; and

- Attests at the date of the agreement that at least fifty percent of its employees are low-wage workers, as defined by the board.

"Partnership participant" means:

- A participating small employer as defined in this section;

- An employee of a participating small employer;

- A former employee of a participating small employer who chooses to continue coverage through the HIP following separation from employment, to the extent the employee is eligible for continuation of coverage under 29 U.S.C. Sec. 1161 et seq.; and

- A former employee of a participating small employer who chooses to continue coverage through HIP following separation from employment, to the extent determined by the board.

"Philanthropy" means a person, organization or other entity, approved by the administrator that is responsible for payment of all or part of the monthly premium obligation on behalf of a partnership participant.

"Premium" has the same meaning as described in RCW 48.43.005.

"Premium subsidy" or "subsidy" means payment to or reimbursement by the HIP on behalf of an eligible partnership participant toward the purchase of a designated health benefit plan.

"Qualifying change in family status" is defined in WAC 182-26-325.

"Section 125 plan" means a cafeteria plan compliant with section 125 of the federal Internal Revenue Code that enables employees to use pretax dollars to pay their share of their health benefit plan premium.

"Small employer" or "employer" as used in this chapter means an employer who meets the definition of "small employer" in RCW 48.43.005.

"Subsidy application and renewal period" means an annual period that lasts at least sixty days, during which:

- All partnership participants may apply for premium subsidies for themselves and their dependents; and
- All partnership participants receiving a subsidy are required to provide proof of their continuing eligibility for a premium subsidy.

The subsidy application and renewal period will begin ninety days before the employer-sponsored health benefit plan open enrollment period begins.

"Surcharge" means an amount, determined by the administrator, that may be added to a partnership participant's premium as provided for in WAC 182-26-500. The surcharge is not part of the premium and applies only to coverage purchased through the HIP.

"Washington state resident" means:

(a) A person who physically resides in and maintains a residence in the state of Washington.

(b) To be considered a Washington resident, individuals who are temporarily out of Washington state for any reason may be required to demonstrate their intent to return to Washington state.

(c) "Residence" may include, but is not limited to:

- (i) A home the person owns or is purchasing or renting;
- (ii) A shelter or other physical location where the person stays; or
- (iii) Another person's home.

PART 2 EMPLOYER ENROLLMENT

NEW SECTION

WAC 182-26-200 Employer eligibility for the HIP.

To enroll in the HIP, a small employer must:

- Meet the minimum contribution requirement under WAC 182-26-210;
- Meet the minimum participation requirement under WAC 182-26-220; and
- Agree to establish a section 125 plan under RCW 70.47A.030 (2)(a).

NEW SECTION

WAC 182-26-210 Minimum employer contribution.

- A small employer must contribute at least forty percent of each health plan eligible employee's total premium obligation.
- The minimum contribution requirement does not apply to a health plan eligible employee's dependent's premium.

NEW SECTION

WAC 182-26-220 Minimum participation.

- A participating small employer will determine the criteria for eligibility and enrollment in his or her designated health benefit plan.
- To participate in the HIP, the small employer must enroll at least seventy-five percent of the health plan eligible employees in the designated health benefit plan.

- When calculating the minimum participation percentage, employees who have similar existing coverage from another source and the health plan eligible employees' dependents will not be included.

PART 3 PREMIUM SUBSIDIES

NEW SECTION

WAC 182-26-300 Who can receive a premium subsidy? An eligible partnership participant may receive a premium subsidy if there is sufficient funding available, as determined by the administrator.

NEW SECTION

WAC 182-26-305 Applying for a HIP premium subsidy. (1) To receive a HIP subsidy, an applicant must submit a complete application and all supporting documents as described in WAC 182-26-310 to the HIP.

(2) On a subsidy application, an applicant must list all eligible dependents up to age nineteen. The applicant must also provide other information and documents as required by the HIP.

(3) An applicant is not required to list dependents aged nineteen or over and under twenty-five on the application, but if they are listed on the application, the HIP will include the dependents' income for purposes of subsidy eligibility and calculation.

(4) An applicant is not required to apply for a subsidy for all of his or her dependents. However, any dependent that does not apply for a subsidy at the same time that the other family members apply must wait to apply as a dependent until the next subsidy application and renewal period.

NEW SECTION

WAC 182-26-310 Application—Supporting documents. (1) An application for a HIP subsidy must be accompanied by all of the following supporting documents:

- Proof of the family gross income as described in WAC 182-26-345.
- Proof of the applicant's Washington state residence, displaying the applicant's name and current address, such as a utility bill or rent receipt. The HIP may accept other documents if the applicant does not have a physical residence, for example, a signed statement from a person or other entity that is providing temporary shelter. The HIP will not accept a post office box or other mailing address as proof of residence.
- Other documents or information as requested by the HIP to establish or verify eligibility.

(2) The HIP may verify income of applicants for a HIP subsidy through comparison with other state and federal agency records or other third-party sources.

(3) Incomplete or inaccurate information may delay or prevent an applicant from receiving a premium subsidy. Intentionally submitting false information will, at a minimum, result in the loss of subsidy eligibility for an applicant or partnership participant and all of his or her subsidized dependents.

NEW SECTION

WAC 182-26-315 HIP application review. (1) Except as provided in WAC 182-26-300, the HIP will review subsidy applications within thirty days of receipt. The HIP will send notification of an applicant's subsidy status upon completion of the review.

(2) Eligible applicants will be subsidized in the HIP in the order in which their completed applications have been received by the HIP, provided the administrator has determined there is subsidy funding available and the participating small employer also remits full payment of the first full month's premium to the HIP by the due date specified by the HIP.

NEW SECTION

WAC 182-26-320 Annual subsidy application and renewal. (1) The HIP will verify the continuing eligibility of eligible partnership participants at least annually, or upon renewal or a change of the employer-sponsored health benefit plan.

(2) Upon request of the HIP, subsidized eligible partnership participants must submit evidence satisfactory to the HIP that proves their continued eligibility for a premium subsidy and for the amount of subsidy they receive.

(3) The HIP may verify income of subsidized eligible partnership participants through comparison with other state and federal agency records or other third-party sources.

(4) If the eligible partnership participant's income on record with other agencies or third-party sources differs from the income the participant has reported to the HIP, or if questions arise concerning the documents submitted, the HIP may require updated documents from the participant to prove continued eligibility for the subsidy they receive. At that time, the HIP may also require updated proof of residence.

(5) Eligible partnership participants who have documented that they did not file a federal income tax return for previous years may not be required to provide additional verification of nonfiling, unless their circumstances appear to have changed or other information received by the HIP indicates they may have filed a federal income tax return.

(6) In addition to verification of income, eligible partnership participants must annually submit proof of Washington state residence to the HIP.

(7) Partnership participants who fail to comply with an annual subsidy renewal request will be disenrolled from the HIP subsidy program and will no longer receive a premium subsidy from the HIP.

(8) If, as the result of an annual subsidy renewal review, the HIP determines that a partnership participant has not reported income accurately, the partnership participant will be subject to the provisions of WAC 182-26-335.

NEW SECTION

WAC 182-26-325 Making changes to a HIP account.

(1) A partnership participant may add an eligible dependent to a HIP account:

(a) Annually, during the subsidy application and renewal period; or

(b) When there is a qualifying change in family status. In these cases, the partnership participant must notify the administrator on the required form within thirty calendar days of the change in family status. A "qualifying change in family status" means:

- The loss of other health care coverage for a dependent who has previously waived coverage in the partnership participant's employer-sponsored health benefit plan;

- The birth, adoption, or placement for adoption of a dependent child in the partnership participant's home;

- The partnership participant marries;

- The partnership participant or his or her spouse assumes custody or dependency of a child or adult dependent; or

- A dependent that was previously ineligible for the partnership participant's employer-sponsored health benefit plan coverage has become eligible.

(2) A partnership participant may remove dependents from a HIP account upon divorce, annulment, or legal separation, or upon the death of a dependent. In these cases, the partnership participant must notify the HIP within thirty calendar days of the change in family status.

(3) A partnership participant must notify the HIP of a change in his or her physical address within thirty calendar days of the change of address.

NEW SECTION

WAC 182-26-330 Loss of subsidy eligibility. A partnership participant may lose subsidy eligibility for himself or herself and his or her dependents when:

- The partnership participant's or dependent's coverage under his or her designated health benefit plan has been suspended or terminated;

- The partnership participant is no longer a Washington state resident;

- The partnership participant has not accurately reported his or her family gross income at the time of subsidy application or renewal; or

- The partnership participant's employer is disenrolled from the HIP program.

If the partnership participant loses subsidy eligibility, he or she will no longer receive a premium subsidy, beginning with the next coverage month following the determination of the change.

NEW SECTION

WAC 182-26-335 Recoupment. The HIP may recoup overpaid subsidy amounts from current and former partnership participants when the HIP determines that a subsidy overpayment occurred because the current or former partnership participant misrepresented or withheld information necessary to accurately determine their subsidy eligibility or subsidy amount.

NEW SECTION

WAC 182-26-340 How does the HIP determine the premium subsidy amount? (1) The HIP will apply a sliding scale subsidy schedule based on the partnership participant's

family gross income and family size to determine the percentage of the employee's premium obligation the state will pay.

(2) The percentage in subsection (1) of this section will be applied to the health benefit plan employee premium share, including the amount due for dependents' coverage, remaining after deducting the employer contribution from the total premium amount for that participant.

(3) If a participating small employer chooses a health benefit plan with a higher premium than the benchmark plan, the subsidy will not exceed the amount applicable to the benchmark plan.

(4) In no case will the subsidy percentage exceed ninety percent of the benchmark plan employee premium share.

(5) Once enrolled in the HIP, the subsidy percentage will not change until the next subsidy application and renewal period, even if the total premium share changes because of a qualifying change in family status.

NEW SECTION

WAC 182-26-345 How does the HIP calculate income? (1) The HIP will average applicants' or dependents' family gross income over a twelve-month period using the total income reported on the most recent tax year's federal income tax return.

(2) If the applicant or dependent cannot provide a copy or IRS transcript of the most recent tax year's federal income tax return, the applicant or dependent must submit a signed declaration of nonfiling and the HIP will calculate the income based on documents deemed acceptable to the administrator.

(3) If an applicant or his or her spouse is self-employed or receives rental income, the applicant or spouse may be required to submit a twelve-month history of receipts and expenses for proof of self-employment or rental income unless the applicant or spouse has not owned the business or rental for at least twelve months. In these cases, the applicant or spouse must send proof of all receipts and expenses for all months he or she has owned the business or rental.

(4) The HIP will deduct expenses an applicant pays for child or dependent care when calculating family income. The HIP will establish a maximum amount that can be deducted, consistent with IRS requirements. To qualify for this deduction:

(a) The care must be for a dependent on the account, as described under "dependent" as defined in WAC 182-26-100;

(b) The applicant and spouse, if any, listed on the account, must be employed, attend school, or be receiving Social Security disability benefits during the months the care was provided; and

(c) The person who was paid for the dependent's care cannot be the dependent's parent or stepparent or another of the applicant's or spouse's dependents.

(5) The HIP will deduct payments made for alimony when calculating family income.

NEW SECTION

WAC 182-26-350 What does the HIP count as income? Income includes all of the following, before any deductions (gross income):

Source	Received by the participant, spouse, child dependent aged nineteen or over and under twenty-five, or adult dependent	Received by a dependent child under age nineteen
Wages, tips, and salaries	Yes	No
Taxable interest	Yes	Yes
Ordinary dividends	Yes	Yes
Taxable refunds, credits, or offsets of state and local income taxes	Yes	Yes
Alimony received	Yes	N/A
Business income or loss	Yes	Yes
Capital gain or loss	Yes	Yes
Other gains or losses	Yes	Yes
IRA distributions	Yes	Yes
Pensions and annuities	Yes	N/A
Rental real estate, royalties, partnerships, S corporations	Yes	Yes
Farm income	Yes	Yes
Unemployment compensation	Yes	No
Social Security benefits	Yes	Yes
Other income	Yes	Yes

**PART 4
ADMINISTRATIVE PROCEDURES**

NEW SECTION

WAC 182-26-400 Appeals—Grounds. (1) An employer may appeal a HIP decision regarding the employer group's eligibility or enrollment status in the HIP.

(2) A partnership participant or applicant may appeal a HIP decision regarding:

- Eligibility for a premium subsidy;
- Premium subsidy amounts;
- Premium subsidy adjustments or penalties.

NEW SECTION

WAC 182-26-405 Appeals—Who may appeal a HIP decision? The HIP will accept appeals from an appealing

party. For the purposes of this chapter, "appealing party" means:

- (1) A participating small employer or small employer who has been denied enrollment in the HIP;
- (2) An eligible partnership participant or applicant; or
- (3) A third party on the behalf of the person listed in subsection (1) or (2) of this section, as long as the HIP has authorization from the person appealing. The authorization must:
 - Be in writing; and
 - Verify that the third party represents the person appealing, and that the HIP can share the person's HIP account information with the third party.

NEW SECTION

WAC 182-26-410 How to appeal a HIP decision. (1)

To appeal a HIP decision, submit a signed letter of appeal to the HIP. The HIP must receive the letter of appeal within thirty calendar days of the date of the decision. The letter of appeal should include:

- (a) The appealing party's name, mailing address, and HIP account number if assigned;
 - (b) A copy of the notice of the decision being appealed or an explanation of the decision being appealed; and
 - (c) A statement explaining why the appealing party believes the decision was incorrect, outlining the facts surrounding the decision and including supporting documents.
- (2) If an appealing party would like an opportunity to explain in person or by phone, the appealing party should include that in the letter of appeal.

(3) Within fifteen calendar days of the date the HIP receives the letter of appeal, the HIP will send the appealing party written confirmation of receipt of the appeal. If requested by the appealing party, the HIP will schedule an opportunity for the appealing party to explain in person or by phone.

(4) Within sixty calendar days of the date the HIP receives the letter of appeal, the HIP will send the appealing party written notice of the HIP appeal decision. If the appeal is from a third party, the HIP will send a copy of the notice to the appealing party. The notice will include the reasons for the appeal decision and instructions for requesting a review of the appeal decision.

(5) The appeal decision becomes the final agency decision unless the HIP receives a valid request for an additional review from the appealing party. To be valid the request must:

- Be received by the HIP within thirty calendar days of the date of the appeal decision;
- Include a summary of the decision to be reviewed and explain why the appealing party believes the decision was incorrect; and
- Provide additional information or documents the appealing party would like the HIP to consider in the review.

(6) When a valid request for an additional review is received, HIP appeal decisions will be reviewed by a presiding officer according to the requirements of RCW 34.05.488 through 34.05.494. These review decisions will be based on the record and documents submitted, unless the presiding officer decides that an in-person or telephone hearing is

needed. If an in-person or telephone hearing is needed, the presiding officer will decide whether to conduct the hearing as an informal hearing or formal adjudicative proceeding.

(7) The presiding officer will send a written notice of the review decision, including the reasons for the decision, within twenty-one calendar days of receiving the request for review, unless the presiding officer finds that additional time is needed for the decision.

(8) If the appealing party disagrees with a review decision under subsection (5) of this section, he or she may request judicial review of the decision, as provided for in RCW 34.05.542.

PART 5 AGENCY OPERATIONS

NEW SECTION

WAC 182-26-500 Surcharge applicability. (1) The HIP may apply the surcharge uniformly to each health benefit plan purchased through the HIP to reflect the HIP's administrative and operational expenses remaining after any legislative appropriation for this purpose during the year the surcharge is assessed.

(2) The surcharge may be added to the premium, but will not be considered a part of the small group community rate and applies only to coverage purchased through the HIP.

(3) The surcharge may not be used to pay any premium assistance payments.

WSR 08-19-069 PROPOSED RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Filed September 16, 2008, 9:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-145.

Title of Rule and Other Identifying Information: Chapter 296-96 WAC, Safety regulations and fees for all elevators, dumbwaiters, escalators and other conveyances.

Hearing Location(s): Department of Labor and Industries, Tukwila Service Location, 12806 Gateway Drive, Tukwila, WA, on October 30, 2008, at 3:00 p.m.

Date of Intended Adoption: November 4, 2008.

Submit Written Comments to: Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292, by October 30, 2008.

Assistance for Persons with Disabilities: Contact Sally Elliott by October 15, 2008, at yous235@lni.wa.gov or (360) 902-6411.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: On November 30, 2007, the elevator program adopted several changes to their rules. The new rules have been in effect for several months and the program has found some sections that need further clarification or updating. For example, several notes will be

added to clarify requirements from the adopted American National Standards Institute (ANSI) code.

The changes to the rules will:

- Clarify requirements from the ANSI;
- Clarify wording for ease of use;
- Delete outdated requirements; and
- Update references.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 70.87 RCW.

Statute Being Implemented: Chapter 70.87 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Jack Day, Tumwater, Washington, (360) 902-6128; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has

considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined they do not require a small business economic impact statement because the proposed rules are clarifying the rules without changing their effect and incorporating national consensus codes that generally establish industry standards (see RCW 19.85.025 referencing exemptions listed under RCW 34.05.310 (4)(c) and (d)).

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis was not prepared under chapter 19.85 RCW. The department considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined they do not require a cost-benefit analysis because the proposed rules are clarifying the rules without changing their effect and incorporating national consensus codes that generally establish industry standards (see exemptions, RCW 34.05.328 (5)(b)).

September 16, 2008

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-00650 Which National Elevator Codes and Supplements has the department adopted?

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	NATIONAL CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Elevators, Dumbwaiters, Escalators	American Standard Safety Code (ASA) ((A17.1-13)) A17.1, 1962	11/1/1963	12/29/1967	Adopted Standard
Moving Walks	American Safety Association A17.1.13, 1962	11/1/1963	12/29/1967	Adopted Standard
Elevators, Dumbwaiters, Escalators, and Moving Walks	U.S.A. Standards (USAS) USAS A17.1, 1965; Supplements A17.1a, 1967; A17.1b, 1968; A17.1c, 1969;	12/30/1967	2/24/1972	Adopted Standard USAS 1965 includes revision and consolidation of A17.1-1, 1960, A17.1a, 1963, and A17.1-13, 1962. Adopted code and supplements, excluding Appendix E and ANSI 17.1d, 1970.
Elevators, Dumbwaiters, Escalators, and Moving Walks	American National Standard Institute ANSI A17.1, 1971	2/25/1972	6/30/1982	Adopted Standard as amended and revised through 1971.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1971; A17.1a, 1972	2/25/1972	6/30/1982	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1981	7/1/1982	1/9/1986	Adopted Standard
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1a, 1982	3/1/1984	1/9/1986	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1b, 1983	12/1/1984	1/9/1986	Adopted Supplement, except portable escalators covered by Part VIII of A17.1b, 1983.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1984	1/10/1986	12/31/1988	Adopted Standard Except Part XIX. After 11/1/1988 Part II, Rule 211.3b was replaced by WAC 296-81-275.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1a, 1985	1/10/1986	12/31/1988	Adopted Supplement

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	NATIONAL CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1b, 1985; A17.1c, 1986; A17.1d, 1986; and A17.1e, 1987	12/6/1987	12/31/1988	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1987	1/1/1989	12/31/1992	Adopted Standard Except Part XIX and Part II, Rule 211.3b. WAC 296-81-275 replaced Part II, Rule 211.3b.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 1990	1/1/1993	2/28/1995	Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 1993	3/1/1995	6/30/1998	Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 1996	6/30/1998	6/30/2004	Adopted Standard Except Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 2000; A17.1a, 2002; A17.1b, 2003	7/1/2004	1/1/2008	Adopted Standards and Addenda Except Rules 2.4.12.2, 8.6.5.8 and Sections 5.4, 7.4, 7.5, 7.6, 7.9, 7.10, 8.10.1.1.3 and 8.11.1.1.
Safety Standards for Platform Lifts and Stairway Chairlifts	ASME A18.1, 1999; A18.1a, 2001; A18.1b, 2001	7/1/2004	1/1/2008	Adopted Standards and Addenda.
Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, Special Purpose	ASME A17.1-2004; A17.1a-2005	1/1/2008	Current	Adopted Standards and Addenda Except Rules 2.4.12.2, marked car top clearance space, 8.6.5.8, Maintenance of safety bulkhead, 5.4, Private residence incline elevators, 7.4 & 7.5 & 7.9 & 7.10 Material lifts, 8.10.1.1.3 and 8.11.1.1, QEL-1 inspector.
Safety Code for Platform Lifts and Stairway Chairlifts	ASME A18.1-2005	1/1/2008	Current	
Safety Code for Belt Manlifts	ASME A90.1-2003	1/1/2008	Current	
Safety Code for Personnel Hoists, Retroactive	ANSI A10.4-2004	1/1/2008	Current	

Note: Copies of codes and supplements can be obtained from The American Society of Mechanical Engineers, Order Department, 22 Law Drive, Box 2900, Fairfield, New Jersey, 07007-2900 or by visiting www.asme.org.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02475 What are the requirements for sprinklers in hoistways and machine rooms? (1) The machine room sprinkler piping must terminate in the machine room. The sprinkler piping must not run through the machine room to other spaces.

(2) The hoistway must not be used to supply sprinkler piping to more than one floor.

(3) The pit will be considered as a floor level.

(4) Sprinkler heads at the top of the shaft must terminate in the shaft. The sprinkler must not run through the hoistway to other spaces. ("Other spaces" includes the machine room.)

(5) All risers and returns must be located outside of the hoistway and machine room.

(6) See requirements in ASME A17.1.

(7) If a sprinkler system is added to an existing installation, the conveyance will be required to:

(a) Install shunt trip per WAC ((~~296-96-02277~~) 296-96-02480).

(b) If the conveyance was permitted to install on or after 1/1/1989 (A17.1-1987 code), then the fire service must operate to the code enforced per the original installation permit. A controller alteration will require fire and sprinkler system installation to the current adopted code.

(c) If the permit is prior to 12/31/1988, the fire service shall operate per current adopted standard in effect at the time of the alteration permit. (See A17.1-2.27.3.)

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02515 What is required for car controls? (1) Car controls shall be located within one of the reach ranges specified in ANSI 117.1 section 308. In no instance shall the car call buttons or other device(s) used in addition to or in lieu of, be lower than thirty-six inches from the cab floor height.

~~((EXCEPTION))~~

EXEMPTION: Where the elevator panel serves more than sixteen openings and a parallel approach to the controls is provided, buttons with floor designations shall be permitted to be fifty-four inches maximum above the floor.

(2) Elevator car call sequential step scanning shall be provided where car control buttons are provided more than forty-eight inches above the floor.

(3) Floor selection shall be accomplished by applying momentary or constant pressure to the up or down scan button. The up scan button shall sequentially select floors above the current floor. The down scan button shall sequentially select floors above the current floor. When pressure is removed from the up and down scan button for more than two seconds, the last floor selected shall be registered as a car call. The up and down scan button shall be located adjacent to or immediately above the emergency control buttons. (new requirement)

(4) Car control buttons with floor designations shall be raised or flush.

(5) Buttons shall be three-fourth inch minimum in their smallest dimension.

(6) Buttons shall be arranged with numbers in ascending order. When two or more columns of buttons are provided they shall read from left to right.

(7) Control buttons shall be identified by tactile characters complying with ANSI 117.1 section 703.

(8) Tactile characters and Braille designations shall be placed immediately to the left of the control button to which the designations apply.

(9) Car control keypads shall be a standard telephone keypad arrangement.

(10) Keypads shall be identified by visual characters complying with ANSI A117.1 and shall be centered on the keypad button. The number five key shall have a single raised dot.

(11) The dot shall have a base diameter of 0.188 inch minimum to 0.120 inch maximum, and a height of 0.025 inch minimum and 0.037 inch maximum.

(12) Emergency controls shall have their centerlines thirty-five inches minimum above the floor.

(13) Emergency controls including the emergency alarm shall be grouped at the bottom of the panel.

(14) The control buttons for emergency stop, alarm, door open, door close, main entry floor, and phone shall be tactile symbols. Per ANSI table 407.4.7.1.3.

(15) Buttons with floor designations shall be provided with visible indicators to show that a call has been registered. The visible indicator shall extinguish when the car arrives at the designated floor.

~~((EXCEPTION))~~

EXEMPTION: Special purpose and residential elevators are exempt from this section.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02560 What are the requirements for submersible pumps or sumps? Sump pumps and drains are not required in elevator pits. Sump holes must be installed and measure a minimum of eighteen inches by eighteen inches by eighteen inches. If drains or sump pumps are installed, they must not be directly connected to sewers and/or storm drains. P-traps and check valves are not allowed. All installations must meet the NEC and all plumbing codes. Drains meeting the above requirements may be installed in lieu of sump holes.

Sump hole covers must be designed to withstand a load of three hundred pounds per square foot.

EXEMPTION: Residential elevators, vertical platform lifts, and special purpose lifts are exempt from this section.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02570 How do we enforce hoistway ventilation? (1) Area of vents. ~~((Except as provided for))~~ As required in International Building Code (IBC) and chapter 51-50 WAC in Section 3004.3.1, the area of the vents shall not be less than 3-1/2 percent of the area of the hoistway nor less than three square feet (0.28 m²) for each elevator car, and not less than 3-1/2 percent nor less than one-half square foot (0.047 m²) for each dumbwaiter car in the hoistway, whichever is greater. The total required vent area shall be equipped with dampers that remain powered closed until activated open by the fire alarm system panel. The dampers shall open upon loss of power.

(2) Activation of the powered vent must not be from the same device that activates the phase one fire recall.

EXEMPTION: Special purpose and residential elevators are exempt from this section.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02575 How do we enforce hoistway pressurization? Pressurization requirements. Elevator hoistways shall be pressurized to maintain a minimum positive pressure of 0.10 inches of water column with respect to adjacent occupied space on all floors and a maximum pressure so as to not prevent the automatic operation of the elevator doors, as well as accounting for the stack and wind effect expected on the mean low temperature January day. This pressure shall be measured at the midpoint of each hoistway door, with all hoistway doors open at the designated primary recall level and all other hoistway doors closed. The supply air intake shall be from an outside, uncontaminated source located a minimum distance of twenty feet from any air exhaust system or outlet.

(1) Elevator doors. Each elevator door shall operate properly when hoistway pressurization is in effect.

(2) Hoistway venting. Hoistway venting required by Section 3004 need not be provided for pressurized elevator shafts.

(3) Machine rooms. Elevator machine rooms shall be pressurized in accordance with this section unless separated from the hoistway shaft by construction in accordance with the International Building Code, Section 707.

(4) Special inspection. Special inspection for performance shall be required in accordance with the International Building Code, Section 909.18.8. System acceptance shall be in accordance with the International Building Code, Section 909.19.

(a) The elevator department must observe the operation of the doors and insure proper documentation and tags are on site.

(b) Devices shall have an approved identifying tag or mark on them consistent with the other required documentation and shall be dated indicating the last time they were successfully tested and by whom.

EXEMPTION: Special purpose and residential elevators are exempt from this section.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02590 When does the department require a local building official to sign off for the installation of LULAs, stair lifts, inclined wheelchair lifts and vertical wheelchair lifts? In existing buildings where LULAs, stair lifts, inclined wheelchair lifts and vertical wheelchair lifts are to be installed, the local building official must signify that he/she is allowing this type of conveyance on a form provided by the department.

EXEMPTION: Residential conveyances are exempt from this section.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-08200 What are the requirements for the activation and operation of an inclined private residence conveyances for transporting property? (1) If activation of the conveyance is by key switch, key pad or swipe card, the activation and operation must conform to the requirements of (a) and (b) of this subsection. The department may approve alternative methods of equal security.

(a) The key or code must be entered each time to move the conveyance.

(b) Key-operated switches must be of the spring return type and must be operated by a weatherproof cylinder type lock having not less than five pin or five disc combination with the key removable only when the switch is in the off position.

(2) If activation is provided by a timing circuit that only permits the circuits to be initiated or unlocked for a sufficient amount of time to allow the loading of materials, the operating circuits must automatically relock:

(a) If the conveyance is not activated within its preset period of time;

(b) When any landing stop button is activated; or

(c) When the car has completed transit to another landing or returns to the departure landing.

(3) Emergency stop switches must be provided on or adjacent to the operating station. Stop switches:

(a) May be of a momentary type;

(b) Must have red handles or buttons and be conspicuously marked "STOP"; and

(c) Must open even if springs fail when springs are used.

(4) After initiation of stopping, the car may not automatically restart. Run condition must be manually initiated.

(5) Design and installation of control and operating circuits must meet the following:

(a) Control systems based upon the completion or maintenance of an electric circuit must not be used for interrupting power and applying machine brakes at terminals, stopping elevators when an emergency stop switch is open or when any electrical protective device operates, or for stopping a machine when the safety applies.

(b) If springs are used to activate switches, contact, or circuit breaking relays to stop the elevator at a terminal, the springs must be a restrained compression type.

(6) Hand rope operation must not be used.

~~((7) For inclined private residence conveyances installed before January 1, 2008, radio controls may be used in lieu of wiring for all car controls provided:~~

~~(a) The system is set up so that it is fail safe (if radio contact is lost, the unit will stop);~~

~~(b) In such installations, the stop button in the car shall interrupt the circuit of frequency; and~~

~~(c) The controls are permanently mounted and comply with the applicable rules.)~~

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-13157 What requirements apply to car safeties? All cars suspended or operated from overhead machinery must be equipped with an approved car safety capable of stopping and holding the car while carrying its rated load.

(1) Car safeties must be mechanically operated and not be affected by any interruptions in the electrical circuit.

(2) Car safeties and governor controlled safeties must operate automatically and the control circuit must be broken in the event of cable breakage.

(3) A no-load annual safety test must be performed and a tag with the date and company conducting the test must be attached to the governor with a wire and seal. A safety tag must also be permanently affixed to the inside of the car.

(4) A five-year full load test must be performed and a safety tag with the date and company conducting the test must be permanently attached to the governor with a wire and seal. A safety tag must also be permanently affixed to the inside of the car. Documentation must be submitted to the department.

Qualified people will conduct the test. A qualified person is either:

(a) An elevator mechanic licensed in the appropriate category for the conveyance being tested;

(b) The representative of a firm that manufactured the particular ((~~material lift~~)) conveyance and who holds a current temporary mechanic's license in this state; or

(c) The representative of a firm that manufactured the particular ((~~material lift~~)) conveyance who is working under the direct supervision of an elevator mechanic licensed in the appropriate category for the conveyance being tested.

(5) Separate safety tags must be used to distinguish the no-load annual safety test and the five-year full load test.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-14080 What additional requirements apply to the installation and operation of hand powered manlifts? (1) Only employees and other authorized personnel may ride in a lift car.

(2) Escape ladders must be installed extending the full length of the hoistway and must be located in a position so that in an emergency a person can safely transfer from the car platform to the ladder. Transfer is considered safe when a person can maintain three points of contact while making the transfer. An "IMPAIRED CLEARANCE" sign must be posted at the bottom of a ladder when the face of the ladder is less than 30 inches from any structure.

(3) An automatic safety device which will prevent the car from leaving the landing until manually released by the operator must be installed at the bottom landing.

(4) A fire extinguisher in proper working condition must be available in the car.

(5) A five-year full load test must be performed and a tag indicating the date and the company conducting the test must be permanently attached with a wire and a seal. Documentation of the test submitted to the department. Manlifts with wooden rails must have a no-load drop test performed on the equipment.

Qualified people will conduct the test. A qualified person is either:

(a) An elevator mechanic licensed in the appropriate category for the conveyance being tested;

(b) The representative of a firm that manufactured the particular ((~~material lift~~)) conveyance and who holds a current temporary mechanic's license in this state; or

(c) The representative of a firm that manufactured the particular ((~~material lift~~)) conveyance who is working under the direct supervision of an elevator mechanic licensed in the appropriate category for the conveyance being tested.

(6) A no load annual safety test must be performed and a tag indicating the date and company conducting the test must be attached to the conveyance with a wire and seal. A safety tag must also be permanently affixed to the inside of the car.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-23610 What requirements apply to routine periodic inspections and tests? The owner or the owner's agent must ensure that her/his conveyances are inspected and tested on a periodic annual basis by a person qualified to perform such services. All conveyances must be tested to the applicable code(s) by an elevator mechanic

licensed in the appropriate category for the conveyance being tested. (See appendix N in ASME A17.1.)

(1) For annual testing of electric, hydraulic, and roped hydraulic elevators, a log indicating the date of testing with all pertinent data included must be posted in the machine room. The log must be completed by the qualified person performing the test.

(a) A log indicating the date of testing with all pertinent data included must be posted in the machine room. The log must be completed by the licensed elevator mechanic performing the test.

(b) It is the responsibility of the owner or the owner's representative to install an updated log sheet in the machine room; the outdated log shall remain posted in the machine room.

(2) Required for fire fighters' service portion of the log. It is the owner's responsibility to test fire fighters' service operation of Phase I and Phase II key switches quarterly and annually perform the smoke detector test.

Note: The fire service key switch(es) and smoke detector testing may be performed and logged by the building owner.

(3) For five-year testing:

(a) A full-load safety test must be performed with weights on all conveyances except hydraulic elevators.

(b) For roped hydraulic elevators a static load test with the full load on the car must also be performed.

(c) For tests administered under this subsection:

(i) A safety tag with the date and company conducting the test must be permanently attached to the governor, safeties, and the rupture valves with a wire and seal.

(A) For vertical platform lifts and stair chairs the tag must be located at the disconnecting means.

(B) Separate safety tags must be used to distinguish the no-load annual safety test and the five-year full load test.

(ii) Documentation must be submitted to the department on the approved state form.

(d) Qualified people will conduct the test. A qualified person is either:

(i) An elevator mechanic licensed in the appropriate category for the conveyance being tested;

(ii) The representative of a firm that manufactured the particular ((~~material lift~~)) conveyance, and who holds a current temporary mechanic's license in this state; or

(iii) The representative of a firm that manufactured the particular ((~~material lift~~)) conveyance who is working under the direct supervision of an elevator mechanic licensed in the appropriate category for the conveyance being tested.

Escalators shall be tested and cleaned annually. Upon completion of this work, the appropriate form indicating that the work was done must be submitted to the department.

(4) All other conveyances requiring annual testing must have tags indicating the date and the name of the company who performed the test. When the required location for mounting the tag is not readily accessible, the tag may be mounted on the main line disconnect.

WSR 08-19-070
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed September 16, 2008, 9:48 a.m.]

pia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail yous235@lni.wa.gov.

September 16, 2008
 Judy Schurke
 Director

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-140.

Title of Rule and Other Identifying Information: WAC 296-127-01316 Diver and diver tender, 296-127-01334 Industrial power vacuum cleaners, and 296-127-01396 Construction site surveyor.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Room S117, Tumwater, WA, on October 22, 2008, at 2:30 p.m.

Date of Intended Adoption: November 18, 2008.

Submit Written Comments to: Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292, by October 22, 2008.

Assistance for Persons with Disabilities: Contact Sally Elliott by October 1, 2008, at yous235@lni.wa.gov or (360) 902-6411.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Prevailing wage rates on public work projects are determined and enforced according to the trade, occupation, or "classification" of work actually performed. The purpose of this rule making is to write scope of work descriptions for job classifications that have wage rates but no written scope of work descriptions in the Washington Administrative Code. This rule making will include scope of work descriptions for construction site surveyors, industrial power vacuum cleaners, and divers/diver tenders.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 39.12 RCW, RCW 43.22.051 and 43.22.270.

Statute Being Implemented: Chapter 39.12 RCW and RCW 43.22.270.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: David Soma, Tumwater, Washington, (360) 902-5330; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is specifically exempt from the small business economic impact statement requirement because the proposed rule will not impose more than minor costs on businesses (see RCW 19.85.030 (1)(a)). Wage rates already exist for each of these job classifications. Through this rule making, the department provides greater clarity to all affected parties as to when and to which activities the wage rates apply on public works projects.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Sally Elliott, P.O. Box 44400, Olym-

NEW SECTION

WAC 296-127-01316 Diver and diver tender. For the purpose of the Washington state public works law, chapter 39.12 RCW, divers perform a variety of underwater applications and operations such as structural repair and demolition, underwater welding and cutting, dredging, debris removal and excavation. Diver tenders aid and assist divers by coordinating activities. By classification, this work includes, but is not limited to:

(1) Diving master/supervisor. Is the designated person in charge (per Occupational Safety and Health Act (OSHA) regulations) during operations requiring multiple divers in the water/liquid medium. Is in charge of and responsible for all aspects of the diving operation and supervising all personnel in the dive team.

(2) Diver. A person who wears a type of diving gear that directly supplies compressed air or other gasses for breathing purposes and who personally enters and descends below the surface of the water or other liquid medium to work at ambient pressures encountered therein; including a person working in a one atmosphere bell/vehicle; to inspect, repair, remove, or install equipment or structures. The diver:

- Descends into water with the aid of diver tender and communicates with surface by signal line or telephone; and
 - Inspects docks; and hulls, fittings, and propellers of ships; or
 - Repairs vessels below waterline, replacing fastenings and adding or repairing hull fittings; or
 - Caulks leaks in ships or caissons; or
 - Guides placement of pilings for structures, such as docks, bridges, cofferdams, oil drilling platforms, and storm water/sewerage outfalls; or
 - Lays, inspects, and repairs underwater pipelines, cables and sewers, using hand tools; or
 - Cuts and welds steel; uses air bladder lifting devices for working underwater; or
 - Cleans debris from intake and discharge strainers; or
 - Places rigging around objects and hooks rigging to crane lines; or
 - Rigs explosives for underwater demolitions; or
 - Places recording instruments below surface of water preparatory to underwater tests or experiments; or
 - Sets sheet piling for cofferdams; or
 - Drills holes in rock for blasting purposes at bottom of liquid medium; or
 - Photographs underwater structures; or
 - Places sandbags around pipelines or base of cofferdam to provide structural support.
- (3) Diver tender. A person who works from above the surface of the water or liquid medium to:
- Aid and assist the diver by coordinating topside activity;
 - Aid in dressing and undressing the diver;

- Maintain communications with the diver; or
- Generally maintain the diving equipment on the job site.

(4) Assistant tender. A person who acts as an extra tender available to assist the diver's regular tender.

(5) RCV/ROV pilot-controller. A person who uses remote controls to fly/drive remotely controlled vehicle(s) during underwater functions, and performs routine field maintenance of the RCV/ROV.

(6) RVC/ROV tender. A person who assists the RCV/ROV pilot-controller.

NEW SECTION

WAC 296-127-01334 Industrial power vacuum cleaner. For the purpose of the Washington state public works law, chapter 39.12 RCW, the industrial power vacuum cleaner performs duct cleaning work that normally requires the utilization of a specialized truck or trailer with power vacuum equipment that removes or cleans out mold, fungi, dust and other contaminants from HVAC systems.

(1) Work includes, but is not limited to:

- Source removal methods that employ vacuum units and compressed air to loosen dirt and debris in HVAC systems and convey it to a containment device for proper disposal; and
- Work that involves the attachment of the vacuum system to an existing port.

(2) Work performed under this scope does not include:

- Creating service openings in the system as necessary in order to accommodate cleaning of otherwise inaccessible areas or the sealing of those service openings; nor
- Removing and installing ceiling sections to gain access to HVAC systems during the cleaning process.

Openings that are created for access and then sealed will utilize HVAC sheet metal rates of wage.

Work utilizing mechanical or hand brushes and other tools to loosen dirt and debris for removal from HVAC systems will use the appropriate general laborer or mechanic wages.

NEW SECTION

WAC 296-127-01396 Construction site surveyor. For the purpose of the Washington state public works law, chapter 39.12 RCW, construction site surveyors perform survey work which requires the use or utilization of transits, tripod mounted levels, lasers, electrotape and other electronic measuring devices or theodolites to establish a location, an elevation or grade, distances, and other measurements.

(1) The work of the construction site surveyor includes, but is not limited to:

- Survey work performed after the contract is awarded and during the actual construction in direct support of construction crews when the worker is in the employ of and working under the direction of a construction contractor to survey check points of location and grade on a construction site using a variety of measurement tools, instruments, and procedures.

(2) The construction site surveyor scope of work does not include surveying services not within the description in

subsection (1) of this section that are required by specification or contract or state law to be performed under the direct supervision of individuals registered under chapter 18.43 RCW.

WSR 08-19-076

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed September 16, 2008, 10:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-095.

Title of Rule and Other Identifying Information: Chapter 446-65 WAC, Commercial motor vehicle regulations.

Hearing Location(s): General Administration Building, Commercial Vehicle Division Conference Room, 210 11th Avenue S.W., Olympia, WA 98504, on November 6, 2008, at 9:00 a.m.

Date of Intended Adoption: November 7, 2008.

Submit Written Comments to: Lieutenant Kandi Patrick, P.O. Box 42614, Olympia, WA 98504-2614, e-mail Kandi.patrick@wsp.wa.gov, fax (360) 596-3829, by November 6, 2008.

Assistance for Persons with Disabilities: Contact Lieutenant Kandi Patrick by November 6, 2008, (360) 596-3803.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update current language and add intrastate high risk and imminent hazard carriers and the compliance review hearing process.

Statutory Authority for Adoption: RCW 46.32.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lieutenant Kandi Patrick, General Administration Building, 210 11th Avenue S.W., Olympia, WA 98504, (360) 596-3803.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328.

August 27, 2008

John R. Batiste

Chief

AMENDATORY SECTION (Amending WSR 06-08-082, filed 4/4/06, effective 5/5/06)

WAC 446-65-010 Transportation requirements. (1) The Washington state patrol hereby adopts the following parts of Title 49 Code of Federal Regulations (CFR), and any amendments thereto(~~(, of Title 49 Code of Federal Regulations (CFR),)~~) for motor carriers used in intrastate or interstate commerce(~~(,)~~) in their entirety:

(a) Part(~~(s)~~) 40 Procedures for transportation workplace drug and alcohol testing programs(~~(,)~~).

(b) Part 325 Compliance with interstate motor carrier noise emission standards(~~(,)~~).

(c) Part 350 Commercial motor carrier safety assistance program(;;).

(d) Part 355 Compatibility of state laws and regulations affecting interstate motor carrier operations(;;).

(e) Part 365 Rules governing applications for operating authority(;;).

(f) Part 367 Standards for registration with states(;;).

(g) Part 380 Special training requirements(;;).

(h) Part 382 Controlled substances and alcohol use and testing(;;).

(i) Part 383 Compliance with commercial driver's license program(;;).

(j) Part 385 Safety fitness procedures(;;).

(k) Part 387 Minimum levels of financial responsibility for motor carriers(;;).

(l) Part 390 General(;;).

(m) Part 391 Qualification of drivers(;;). Provided that 49 CFR 391 subpart D (Tests), and E (Physical Qualifications and Examinations) do not apply to motor carriers operating vehicles with gross vehicle weight rating between 10,001 lbs. and 26,000 lbs. operating intrastate, and not used to transport hazardous materials in a quantity requiring placarding.

(n) Part 392 Driving of motor vehicles(;;).

(o) Part 393 Parts and accessories necessary for safe operation(;;).

(p) Part 395 Hours of service of drivers(;;).

(q) Part 396 Inspection, repair, and maintenance(;;). Except if a company has:

(i) Drivers of commercial motor vehicle of any size, hauling logs from the point of production or driving in dump truck operations in intrastate commerce; or

(ii) Operators of intrastate property-carrying commercial motor vehicles that do not require a commercial drivers license to operate.

They are exempt from the requirements of CFR 395.3 (maximum driving time) and CFR 395.8 (record of duty status) and ineligible to use the provisions of CFR 395.1 (e)(1), (g) and (o) provided that:

(A) The driver must:

(I) Operate within a one hundred air-mile radius of the location where the driver reports to work and the driver must return to the work reporting location at the end of each duty tour;

(II) Have at least ten consecutive hours off duty separating each on-duty period;

(III) Not drive:

• More than twelve hours following at least ten hours off duty; or

• After the fourteenth hour after coming on duty on at least five days of any period of seven consecutive days; and

• After the sixteenth hour after coming on duty on no more than two days of any period of seven consecutive days; and

• After having been on duty for eighty hours in seven consecutive days if the employing motor carrier does not operate commercial motor vehicle every day of the week; or

• After having been on duty for ninety hours in eight consecutive days if the employing motor carrier operates commercial motor vehicle every day of the week; in any period of seven or eight consecutive days may end with the beginning

of any off-duty period of twenty-four or more consecutive hours.

(B) The motor carrier that employs the driver must maintain and retain for a period of twelve months accurate and true time recordings showing:

(I) The time the driver reports for duty each day;

(II) The total number of hours the driver is on duty each day;

(III) The total number of hours the driver drives each day;

(IV) The time the driver is released from duty each day; and

(V) The total time the driver is driving and on duty for the preceding seven days.

(r) Part 397 Transportation of hazardous materials; driving and parking rules(;; provided, however, motor carriers operating vehicles with a gross vehicle weight rating between 10,001 lbs. and 26,000 lbs. operating solely intrastate, and not used to transport hazardous materials in a quantity requiring placarding, are exempt from Parts 390 General, 391 Qualifications of drivers, 392 Driving of motor vehicles, 395 Hours of service, and 396 Inspection, repair, and maintenance)).

(2) As provided in Part 395, exemption for agricultural transporters, the harvest dates are defined as starting February 1 and ending November 30 of each year.

(3) Agricultural operations exceptions:

(a) Agricultural operations transporting agricultural products other than Class 2 material (Compressed Gases), over roads, other than the National System of Interstate Defense Highways, between fields of the same farm, is excepted from Part 397 when:

(i) The agricultural product is transported by a farmer who is an intrastate private motor carrier.

(ii) The movement of the agricultural product conforms to all other laws in effect on or before July 1, 1998, and 49 CFR 173.24, 173.24a, and 173.24b.

(b) The transportation of an agricultural product to or from a farm within one hundred fifty miles of the farm, is excepted from the requirements of 49 CFR Part 172 subpart G (emergency response information) and H (training requirements) when:

(i) The agricultural product is transported by a farmer who is an intrastate private motor carrier;

(ii) The total amount of agricultural product being transported on a single vehicle does not exceed:

(A) Sixteen thousand ninety-four pounds of ammonium nitrate fertilizer properly classed as Division 5.1, PGIII, in bulk packaging; or

(B) Five hundred two gallons for liquids or gases, or five thousand seventy pounds for solids, of any other agricultural product;

(iii) The packaging conforms to the requirements of state law and is specifically authorized for transportation of the agricultural product by state law and such state law has been in effect on or before July 1, 1998; and

(iv) Each person having any responsibility for transporting the agricultural product or preparing the agricultural product for shipment has been instructed in the applicable requirements of 49 CFR adopted in this section.

(C) Formulated liquid agricultural products in specification packaging of fifty-eight gallon capacity or less, with closures manifolded to a closed mixing system and equipped with a positive dry disconnect device, may be transported by a private motor carrier between a final distribution point and an ultimate point of application or for loading aboard an airplane for aerial application.

(4) ((Copies of Title 49 CFR, parts 40 and 325 through 397, now in force are on file at the code reviser's office, Olympia and at the Washington state patrol headquarters, commercial vehicle enforcement section, Olympia. Additional copies may be available for review at Washington state patrol district headquarters offices, public libraries, Washington utilities and transportation commission offices, and at the United States Department of Transportation, Bureau of Motor Carrier Safety Office, Olympia. Copies of the CFR may be purchased through the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402-)) Links to the CFRs are available on the Washington state patrol web site at www.wsp.wa.gov. Copies of the CFRs may also be ordered through the United States Government Printing Office, 732 N. Capitol Street N.W., Washington, D.C. 20401.

AMENDATORY SECTION (Amending WSR 95-13-080, filed 6/20/95, effective 7/21/95)

WAC 446-65-020 Physical qualifications for drivers.

((This section provides a process whereby drivers of commercial motor vehicles, which operate solely intrastate and require a commercial driver's license, may receive a clearance to obtain a medical certificate for certain physical conditions:

(1) A person shall not drive a commercial motor vehicle unless they are physically qualified to do so and, except as provided in CFR 49, Part 391.67, and WAC 446-65-010(1), has on their person the original, or a photographic copy, of a medical examiner's certificate that they are physically qualified to drive a motor vehicle.

(2) A person is physically qualified to drive a motor vehicle if that person:

(a) Has no loss of a foot, a leg, a hand, or an arm, or has obtained from the department of licensing the proper driver's license, endorsement, and restrictions (if any) for the operation of the class of motor vehicle the person is driving;

(b) Has no impairment of:

(i) A hand or finger which interferes with prehension of power grasping; or

(ii) An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or has obtained from the department of licensing the proper license, endorsement, and restrictions (if any) for the class of motor vehicle the person is driving;

(c) Has no established medical history of clinical diagnosis of diabetes mellitus currently requiring insulin for control, or if diagnosed as having diabetes mellitus requiring insulin for control, has been cleared by the department of licensing

for the operation of the class of motor vehicle the person is driving;

(d) Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure, or if diagnosed as having any of these medical complications, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(e) Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with his/her ability to control and drive a motor vehicle safely, or if diagnosed as having a respiratory dysfunction which could interfere with his/her ability to control and drive a motor vehicle safely, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(f) Has no current clinical diagnosis of high blood pressure likely to interfere with his/her ability to operate a motor vehicle safely, or if diagnosed as having high blood pressure likely to interfere with his/her ability to operate a motor vehicle safely, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(g) Has no established medical history of clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which interferes with his/her ability to control and operate a motor vehicle safely, or if diagnosed as having any of these medical complications which might interfere with his/her ability to control and operate a motor vehicle safely, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(h) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle, or if diagnosed as having epilepsy or any other condition likely to cause loss of consciousness or any loss of ability to control a motor vehicle, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(i) Has no mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his/her ability to drive a motor vehicle safely, or if diagnosed as having any of these complications likely to interfere with his/her ability to drive a motor vehicle safely, has been cleared by the department of licensing for the operation of the class motor vehicle the person is driving;

(j) Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber, or if not meeting these standards, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving.

(k) First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing

aid, or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951, or if not meeting these standards, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

~~(l) Does not use any unprescribed amphetamine, narcotic, or habit-forming drug and if using a prescribed amphetamine, narcotic, or habit-forming drug, it must be used according to the directions regarding dosage and the operation of motor vehicles or heavy equipment; and~~

~~(m) Has no current clinical diagnosis of untreated alcoholism.~~

~~(3) If the medical examiner finds that the person he/she examined is physically qualified to drive a motor vehicle in accordance with subsection (2) of this section and the items listed in Chapter 49, CFR 391.43, he/she shall complete a certificate in the form prescribed in Chapter 49 CFR 391.43 and shall furnish one copy to the person who was examined and one copy to the motor carrier that employs him/her.~~

~~(4)) (1) If the medical examiner or physician finds any physical condition listed in ((subsection (2)(a) through (m) of this section)) Title 49 CFR 391.41 (b)(1) through (13) that is likely to interfere with the driver's ability to operate or control a motor vehicle safely, it shall be the responsibility of the driver to immediately forward a copy of the driver's medical examination to the Department of Licensing, Responsibility Division, Medical Section, P.O. Box 9030, Olympia, WA 98507-9030. Upon receipt of the medical examination, the department of licensing will review and evaluate the driver's physical qualifications to operate the class of motor vehicle the person intends to drive.~~

~~(2) The department of licensing shall send a notice of determination to the driver. A department of licensing clearance notification shall be sufficient cause for the medical examiner to issue a medical examiner's certificate.~~

~~(3) A failure by the driver to furnish a copy of the medical examination to the department of licensing as required above shall result in no clearance action being taken by the department of licensing.~~

NEW SECTION

WAC 446-65-030 Intrastate high risk and imminent hazard carriers. (1) Any intrastate motor carrier receiving a proposed unsatisfactory safety rating may be identified as a high risk carrier pursuant to RCW 46.32.080. They may also be identified as high risk through analysis of various data, including but not limited to the following:

- (a) Safety fitness rating (SafeStat score);
- (b) Out of service rate that is higher than the national average for drivers and/or vehicles;
- (c) Carrier requires or authorizes any driver or vehicle to operate in violation of an out of service order;
- (d) The number and severity of collisions to include fatalities and serious injury;
- (e) Deficiencies or violations of safety management procedures and/or practices;

(f) Carrier who consistently refuses to come into compliance with federal and state regulations.

(2) If a motor carrier receives a high risk rating, they must undergo a compliance review by the Washington state patrol to determine compliance. During the compliance review:

(a) If no critical/acute violations are found, the carrier will be listed as satisfactory and be removed from the high risk category.

(b) If critical/acute violations are found, the carrier must:

(i) Schedule a follow-up compliance review with the Washington state patrol.

(A) If violations are found after the first compliance review, the follow-up compliance review must be scheduled within sixty to ninety days.

(B) If violations are found after the second compliance review, a third compliance review must be scheduled within one hundred twenty to one hundred eighty days.

(C) If repeat violations are found during any follow-up compliance review, all funds held in abeyance (suspended) from the previous audit will be reinstated along with any repeat violations/penalties.

(ii) Submit a carrier safety action plan within five days to the Washington state patrol outlining the action they have taken or will take to become compliant. This plan must:

(A) Be submitted on company letterhead.

(B) Be signed by the owner/officer of the company.

(C) Provide all supporting documents to show how the carrier plans to become compliant or has become compliant.

(D) Be reviewed and agreed upon by the Washington state patrol. The Washington state patrol may provide changes and request a carrier revise their safety plan and return it to the carrier for further action.

(iii) If a carrier's intrastate DOT number is inactivated:

(A) The carrier will receive a letter from the Washington state patrol advising them their intrastate DOT number has been inactivated and what steps need to be completed to be considered for reactivation.

(B) The Washington state patrol will notify the department of licensing that they have placed an out of service order on the carrier's intrastate DOT number and all vehicles registered to the carrier.

(C) The carrier will have a follow-up compliance review conducted and submit a carrier safety action plan outlining their plans for compliance.

(D) The Washington state patrol will review the safety plan and a follow-up compliance review will be conducted. If the carrier receives a rating of satisfactory or conditional, then the DOT number will be reinstated.

(iv) If a carrier's intrastate DOT number is reinstated:

(A) The carrier will receive a letter from the Washington state patrol advising them their DOT number will be reinstated.

(B) The carrier will need to update their information on a MCS150 form located on the Federal Motor Carrier Safety Administration (FMCSA) web site.

(C) Motor Carrier Management Information System (MCMIS) will be updated to show the intrastate DOT is active.

(3) An intrastate motor carrier may be deemed an imminent hazard pursuant to RCW 46.32.080 (3)(e) and placed out of service without going through any prior compliance reviews. In determining whether a motor carrier is an imminent hazard or danger to the public health, safety, or welfare, the chief of the Washington state patrol or their designee must consider safety factors. A safety factor which constitutes an imminent hazard includes any safety problem or condition which is likely to result in serious injury or death if not discontinued immediately.

(4) If a carrier is required to have a DOT number, they will be required to properly mark their vehicles as prescribed by the Washington state patrol. The marking must display the following:

(a) The legal name or a single trade name of the motor carrier as listed on the MCS150 form.

(b) The motor carrier identification number issued by the FMCSA, preceded by the letter "USDOT."

(i) Size, shape, location, and color of markings:

(A) Appear on both sides of the CMV;

(B) Be in letters that contrast sharply in color with the background on which the letters are placed;

(C) Be readily legible, during daylight hours, from a distance of fifty feet while the CMV is stationary; and

(D) Be kept and maintained in a manner that retains the legibility.

(ii) Construction and durability:

(A) The marking may be painted on the CMV; or

(B) May consist of a removable device.

NEW SECTION

WAC 446-65-040 Compliance review hearing process. (1) A carrier that receives a written notice of penalty from the state patrol has twenty days from receipt of notice to:

(a) Pay the penalty as stated in the notice; or

(b) Submit a written application for mitigation of the penalty; or

(c) Submit a written request for an administrative hearing.

(2) **Mitigation.** A carrier may submit a request for mitigation of a penalty.

(a) A carrier's request for mitigation must:

(i) Be in writing;

(ii) Contain a statement explaining what the steps the carrier has taken to come into compliance, or what steps the carrier proposes to take in the future to come into compliance;

(iii) Contain a notarized signature of the requestor; and

(iv) Be received by the state patrol within twenty days of the receipt of notice.

(b) Upon timely receipt of a written request for mitigation of a penalty, the state patrol will:

(i) Review the materials submitted by the requestor; and

(ii) Notify the carrier in writing of the disposition of the request for mitigation.

(3) **Administrative hearing.** A carrier may request an administrative hearing to contest the violation or penalty, or both.

(a) A carrier's request for an administrative hearing must:

(i) Be in writing; and

(ii) Be received by the state patrol within twenty days of the later of receipt of the notice of penalty or receipt of the disposition of a request for mitigation.

(b) A carrier may request an administrative hearing without first requesting mitigation of the penalty.

(c) An administrative hearing will be conducted under chapter 34.05 RCW (Washington Administrative Procedure Act).

(d) The following process applies to administrative hearings under this chapter:

(i) The state patrol will notify the assistant attorney general of the carrier's request for an administrative hearing;

(ii) The assistant attorney general will draft an administrative complaint and send it to the carrier and to the office of administrative hearings;

(iii) The office of administrative hearings will schedule a hearing date, and will notify the carrier, assistant attorney general, and state patrol in writing of the hearing date, time, and location;

(iv) The hearing will be conducted by an administrative law judge assigned by the office of administrative hearings;

(v) At the hearing, the assistant attorney general will present witnesses and other evidence on behalf of the Washington state patrol (WSP);

(vi) At the hearing, the carrier may be represented by an attorney or may choose to represent himself or herself. The carrier or his/her attorney will be allowed to present witnesses and other evidence.

(e) Nothing in this section will prevent the parties from resolving the administrative matter by settlement agreement prior to conclusion of the administrative hearing.

(4) **Initial and final order.** At the conclusion of the hearing, the administrative law judge will prepare an initial order and send it to the carrier and the assistant attorney general.

(a) Either the carrier or the assistant attorney general, or both, may file a petition for review of the initial order with the state patrol within twenty days of the date of service of the initial order. A petition for review must:

(i) Specify the portions of the initial order to which exception is taken;

(ii) Refer to the evidence of record which is relied upon to support the petition; and

(iii) Be filed with the patrol within twenty days of the date of service of the initial order.

(b) A party on whom a petition for review has been served may, within ten days of the date of service, file a reply to the petition. Copies of the reply must be mailed to all other parties or their representatives at the time the reply is filed.

(c) The administrative record, the initial order, and any exceptions filed by the parties will be submitted to the chief or his designee for review. Following this review, the chief or his designee will enter a final order that is appealable under the provisions of chapter 34.05 RCW.

WSR 08-19-077
PROPOSED RULES
WASHINGTON STATE PATROL
 [Filed September 16, 2008, 10:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-096.

Title of Rule and Other Identifying Information: Chapter 204-24 WAC, Traction devices.

Hearing Location(s): General Administration Building, Commercial Vehicle Division Conference Room, 210 11th Avenue S.W., Olympia, WA 98504, on November 6, 2008, at 11:00 a.m.

Date of Intended Adoption: November 7, 2008.

Submit Written Comments to: Melissa Van Gorkom, P.O. Box 42600, Olympia, WA 98504-2600, e-mail Melissa.vangorkom@wsp.wa.gov, fax (360) 596-4017, by November 6, 2008.

Assistance for Persons with Disabilities: Contact Melissa Van Gorkom by November 6, 2008, (360) 596-4017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update the current language of the chapter and include references to the federal standards.

Statutory Authority for Adoption: RCW 46.37.005 and 46.37.420.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Melissa Van Gorkom, General Administration Building, 210 11th Avenue S.W., Olympia, WA 98504, (360) 596-4017.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328.

September 5, 2008

John R. Batiste
Chief

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 204-22-010	Promulgation.
WAC 204-22-020	Scope.
WAC 204-22-030	Link tire chains.
WAC 204-22-040	Cable tire chains.
WAC 204-22-050	Other tire chain devices.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 204-24-060	Period of use.
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NEW SECTION

WAC 204-24-005 Promulgation. By authority of RCW 46.37.005 and 46.37.420, the Washington state patrol adopts the following standards for tire chains and traction tires.

NEW SECTION

WAC 204-24-010 Scope. These standards apply to tire chains and traction tires designed for and used upon a public roadway.

NEW SECTION

WAC 204-24-015 Definitions. (1) "All wheel drive" means a vehicle which has four-wheel drive capability and may be driven with all wheels in gear.

(2) "Cable laid rope" means a compound laid rope consisting of several ropes or several layers of strands laid together into one rope.

(3) "Cable tire chains" means any ladder-type cable tire chain assemblies designed for use on tires that have been manufactured in accordance with the standards of the Tire & Rim Association, Inc.; 3200 West Market Street; Akron, Ohio 44313.

(4) "Cross cable fastener" means any suitable fastener used to attach each cross cable to the side cable. The fastener must be constructed and assembled to prevent accidental detachment.

(5) "Cross cable traction reinforcement sleeves" means a device that is constructed of the manufacturer's specified material and of suitable length and width to maximize traction, braking, cornering and longevity.

(6) "Fastener" means any suitable connecting device, secured to one end of a side cable constructed so that it can connect to the opposing end and be easily closed (engaged or fastened) and be readily opened (released) by hand.

(7) "Link tire chains" means tire chains which consist of at least two chain loops, one on each side of the tire, connected by evenly spaced metal cross chains across the tire tread.

(8) "Reinforced cross cables" means stranded cable wrapped or covered to provide increased resistance to abrasive wear. This covering may be either a hard drawn spring wire, a high-carbon steel wire or nylon type 6 or 12. The wrapped or covered cable must be enclosed by traction reinforcement sleeves covering said cable essentially from side connector to side connector. Cross cable must be of specified length and provide proper drape over the tire tread.

(9) "Side cable" means stranded cable to complete one full circumference along the tire sidewall.

AMENDATORY SECTION (Amending Order 82-07-01, filed 7/29/82)

WAC 204-24-020 Standards for tire chains. (~~Standards for tire chains shall be as set forth in chapter 204-22 WAC.~~) (1) Link tire chains must meet the National Association of Chain Manufacturers Tire Chain Specifications NACM-5179(TC).

(2) Cable tire chains must be designed for use on tires mounted in accordance with specifications in Society of Automotive Engineers (SAE) Recommended Practice J1232, Class S, and SAE Informational Report J683a. Oversized tires, snow tires, special service, or special traction tires, etc., may require chains of a larger size.

(a) Classifications. Cable tire chains described in this specification must be of the following types as specified for regular and restricted clearances:

(i) Passenger car;

(ii) Single light truck;

(iii) Heavy truck;

(iv) Special police and emergency vehicle.

(b) Requirements:

(i) Components. Cable tire chain assemblies must consist of two side cables, or two outer and one inner side cable, with reinforced cross cables, cross cable fastener, and fasteners necessary to form a complete assembly.

(ii) Material.

(A) Stranded side and stranded cross cable wire must be constructed of preformed galvanized high-carbon steel with a minimum of 450 pounds breaking strength with seven wires per strand and seven strands per cable. The lay must be a right hand lay.

(B) Wire covering stranded cable must be constructed of high-carbon plow steel wire with a minimum tensile strength of 230,000 pounds per square inch.

(C) Spring wire covering stranded cable must be constructed of harddrawn spring wire with a minimum tensile strength of 200,000 pounds per square inch.

(D) Cables, spring, and plow wire must be manufactured in conformance to SAE Recommended Practice J113.

(E) Cross cable fasteners must be constructed of open hearth, electric furnace, or basic oxygen process steel.

(F) Metallic cross cable traction reinforcement sleeves must be constructed of open hearth, electric furnace, or basic oxygen process steel and shall comply with the following American Society for Testing Materials (ASTM) standards: Standard E6 - Bend Test, Standard E8 - Tension Test, Standard E18 - Test Methods for Rockwell Hardness, and Standard A568 - Table of Chemical Content of Steel.

(G) Nonmetallic cross cable traction reinforcement sleeves shall be constructed of "Zytel" ST-801 nylon or its equivalent.

(H) All side cable fasteners are to be constructed of material that will allow easy installation and removal.

(iii) Spacing of cross cable. The first cross cable must be attached to that point of each side cable nearest the fastener that will permit the fastener to lie in the proper plane when the assembled cable tire chain is applied to the tire. On single cable tire chains, the remainder of the cross cables must be attached to the side cable at intervals designed to provide for at least one cross cable in contact with the roadway at all times. On dual-triple tire chains, the remainder of the cross cable shall be attached to the outer side cables at like intervals and to the inner side chain with opposing cross cables staggered at the same intervals.

(iv) Tolerances.

(A) Cross cable length. The inside length of all cross cable, including fasteners held in the same plane, must be

within a tolerance of minus 1/8 inch to plus 1/8 inch of the specified length indicated by the chain manufacturer's specifications. The length shall be measured by hanging the cross cable vertically on a horizontal pin and measuring the inside to inside length. The number of traction reinforcement sleeves in a cross cable may not vary from the number specified by the manufacturer.

(B) Side cable length. The length of all side cables must be within tolerance of minus 1/8 inch to plus 1/2 inch of the length indicated by the chain manufacturer's specifications.

(C) Stranded cable size. Stranded cable size must be subject to the following tolerances:

(I) Material up to and including .094 inch (2.4 mm) diameter shall not be less than the designated diameter and shall not exceed .010 inch (.25 mm) over the specified diameter.

(II) Material over .094 inch (2.4 mm) diameter shall not be less than the specified diameter and shall not exceed .014 inch (.36 mm) over the specified diameter.

(D) Component dimensions. The dimensions of manufactured components may vary, but the assembled cable chains must meet the tolerances specified in (b)(iv)(A), (B), and (C) of this subsection.

(E) Finish. All cable tire chains must have a rust-resistant finish for protection in transit and storage.

(F) Identification. Each half set of cable tire chains must be permanently marked with the manufacturing company's name, initials or trademark in order that it may be easily identified when not in the original container.

AMENDATORY SECTION (Amending WSR 02-19-055, filed 9/12/02, effective 10/13/02)

WAC 204-24-030 Standards for studded tires. Studded tires (~~shall~~) must meet the following specifications:

(1) Studs (~~shall~~) must be metal, tipped with tungsten carbide.

(2) Metal studs (~~shall~~) must be inserted only in a new tire or a newly-recapped tire which has molded in the tread the "pin-holes" into which metal studs are to be inserted. Studs (~~shall~~) must not be inserted in any new tire or newly-recapped tire after it has been driven on a vehicle.

(3) Metal studs may be installed only by the tire manufacturer, or by a tire dealer or tire jobber who shall install the metal studs in conformance with the manufacturer's specifications.

(4) When a tire is sold or offered for sale as a studded tire or when studs are installed in a new tire or a newly-recapped tire, there (~~shall~~) must be a minimum of seventy metal studs evenly spaced around the tread of the tire.

(5) A tire (~~shall~~) must contain a minimum of fifty-six metal studs at all times in order to qualify as a "studded tire" or as an approved traction device.

(6) Metal studs (~~shall~~) must not be installed in any tire of a vehicle which has a gross vehicle weight of ten thousand pounds or over.

(7) School buses and fire department equipment tires are exempt from subsection (6) of this section.

AMENDATORY SECTION (Amending WSR 92-05-016, filed 2/10/92, effective 3/12/92)

WAC 204-24-040 Traction devices. The following equipment items are approved by the state patrol for use as traction devices wherever traction devices are required by the department of transportation:

(1) Tire chains meeting the standards in ~~((chapter 204-22))~~ WAC 204-24-020.

(2) Studded tires meeting the standards in WAC 204-24-030.

(3) Approved traction tires. An approved traction tire ~~((shall))~~ must have the following tread characteristics:

(a) A minimum of 4/32 inch tread, measured in the center portion of the tire at three locations equally spaced around the circumference of the tire.

(b) A relatively aggressive tread pattern designed primarily to provide additional starting, stopping, and driving traction on snow or ice. The tread ~~((shall))~~ must have ribs, lugs, blocks or buttons the edges of which are at an angle greater than thirty degrees to the tire circumferential centerline.

(c) On at least one side of the tread design, the shoulder lugs protrude at least 1/2-inch in a direction generally perpendicular to the direction of travel.

(d) Tires manufactured to meet these specifications ~~((shall))~~ must:

(i) Be permanently labeled on at least one sidewall with the words "mud and snow" or any contraction using the letters "M" and "S" (e.g. MS, M/S, M-S, M & S, etc.).

~~((4) Special tires specifically designed to improve stopping, traction, and cornering abilities of the tire on ice or snow may be approved by the state patrol as an approved traction device.))~~ (ii) Be permanently labeled on at least one side wall with the mountain/snowflake symbol.

AMENDATORY SECTION (Amending WSR 02-19-055, filed 9/12/02, effective 10/13/02)

WAC 204-24-050 Use of tire chains or other traction devices. (1) Vehicles under 10,000 pounds gross vehicle weight.

When traffic control signs are posted by the department of transportation it ~~((shall))~~ will be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires the traction device specified by the sign, which must also meet the requirements of WAC 204-24-040.

Exception for all wheel drive vehicles. When "chains required" signs are posted, all-wheel drive vehicles ~~((shall))~~ will be exempt from the chain requirement when all wheels are in gear and are equipped with approved traction devices as specified in WAC 204-24-040 provided that tire chains for at least one set of drive tires are carried in the vehicle.

(2) Vehicles or combinations of vehicles over 10,000 pounds gross vehicle weight rating (GVWR).

When traffic control signs marked "chains required" are posted by the department of transportation it ~~((shall))~~ will be unlawful for any vehicle or combination of vehicles to enter the controlled area without having mounted on its tires, tire chains as follows: Provided, That highway maintenance vehicles operated by the department of transportation for the purpose of snow removal and its ancillary functions are

exempt from the following requirements if such vehicle has sanding capability in front of the drive tires.

(a) Vehicles or vehicle combinations with two to four axles including but not limited to trucks, truck-tractors, buses and school buses: For vehicles with a single drive axle, one tire on each side of the drive axle ~~((shall))~~ must be chained. For vehicles with dual drive axles, one tire on each side of one of the drive axles ~~((shall))~~ must be chained. For vehicle combinations including trailers or semi-trailers; one tire on the last axle of the last trailer or semi-trailer, ~~((shall))~~ must be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(b) Automobile transporters are any vehicle combination designed and used specifically for the transport of assembled (capable of being driven) highway vehicles. For vehicles with single drive axles, one tire on each side of the drive axle ~~((shall))~~ must be chained. For vehicles with dual drive axles, one tire on each side of each of the drive axles ~~((shall))~~ must be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer ~~((shall))~~ must be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(c) Vehicle combinations with five axles consisting of a truck tractor with dual drive axles and a tandem axled semi-trailer; all tires on one drive axle may be chained or one tire on each side of each of the drive axles may be chained. Chains must be applied to a minimum of four tires on the drive axles. On the tandem axle semi-trailer, the chained tire may be on either of the last two axles.

(d) Vehicle combinations with five axles, consisting of a truck and trailer, or truck tractor and semi-trailer with a single drive axle, or truck tractor, semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle ~~((shall))~~ must be chained. For vehicles with dual drive axles, all tires on one of the drive axles ~~((shall))~~ must be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer ~~((shall))~~ must be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(e) Vehicle combinations with six or more axles, including but not limited to truck and trailer or truck tractor and semi-trailer or truck tractor semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle ~~((shall))~~ must be chained. For vehicles with dual drive axles where traffic control signs marked "approved traction tires required" are posted, all tires on one of the drive axles ~~((shall))~~ must be chained. For vehicles with dual drive axles where traffic control signs marked "chains required" are posted, all tires on one of the drive axles ~~((shall))~~ must be chained. In addition, one tire on each side of the additional drive axle ~~((shall))~~ must be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle ~~((shall))~~ must be chained. For vehicles with tandem axle trailers or semi-trailers, the chained tire may be on either of the last two axles.

(f) All vehicles over 10,000 pounds gross vehicle weight rating (GVWR) ~~((shall))~~ must carry a minimum of two extra chains for use in the event that road conditions require the use

of more chains or in the event that chains in use are broken or otherwise made useless.

(g) Approved chains for vehicles over 10,000 pounds gross vehicle weight rating (GVWR) ~~((shall))~~ must have at least two side chains to which are attached sufficient cross chains of hardened metal so that at least one cross chain is in contact with the road surface at all times. Plastic chains ~~((shall))~~ will not be allowed. ~~((The state patrol may approve other devices as chains if the devices are equivalent to regular chains in performance.))~~

(h) On the following routes all vehicles and combinations of vehicles over 10,000 gross vehicle weight rating (GVWR) pounds ~~((shall))~~ must carry sufficient tire chains to meet the requirements of this chapter from November 1 to April 1 of each year or at other times when chains are required for such vehicles:

(i) I-90 - between North Bend (MP 32) and Ellensburg (MP 101).

(ii) SR-97 - between (MP 145) and Junction SR-2.

(iii) SR-2 - between Dryden (MP 108) and Index (MP 36).

(iv) SR-12 - between Packwood (MP 135) and Naches (MP 187).

(v) SR-97 - between the Columbia River (MP 0.00) and Toppenish (MP 59.00).

(vi) SR-410 - from Enumclaw to Naches.

(vii) SR-20 - between Tonasket (MP 262) and Kettle Falls (MP 342); and SR-20 between Newhalem (MP 120) and Winthrop (MP 192).

(viii) SR-155 - between Omak (MP 79) and Nespelem (MP 45).

(ix) SR-970 - between (MP 0) and (MP 10).

(x) SR-14 - between Gibbons Creek (MP 18.00) and (MP 108.40) intersection of Cliffs Road.

(xi) SR-542 - Mt. Baker highway between (MP 22.91) and (MP 57.26).

(xii) I-82 - between Ellensburg Exit 3 (MP 3.00) and Selah Exit 26 (MP 26.00).

Vehicles making local deliveries as indicated on bills of lading and not crossing the mountain pass are exempt from this requirement if operating outside of a chain required area.

(3) The Washington state department of transportation or Washington state patrol may prohibit any vehicle from entering a chain/approved traction device control area when it is determined that the vehicle will experience difficulty in safely traveling the area.

AMENDATORY SECTION (Amending WSR 92-05-016, filed 2/10/92, effective 3/12/92)

WAC 204-24-070 Approval of tire chains or traction devices. (1) Any tire chain, wheel chains, studded tires, or other traction devices meeting the standards in this chapter ~~((204-22 WAC, WAC 204-24-030, and 204-24-040 shall))~~ or certified under one of the following:

(a) Conformance to Federal Motor Vehicle Safety Standards, or, if none.

(b) Conformance to current standards and specifications of the Society of Automotive Engineers, or, if none.

(c) Certified for compliance by any recognized organization or agency such as, but not limited to, the American National Standards Institute, or the American Association of Motor Vehicle Administrators. will be considered as an approved type chain, studded tire, or other traction device by the state patrol.

(2) Links to the Code of Federal Regulations are available on the Washington state patrol web site at www.wsp.wa.gov. Copies of the CFR may also be ordered through the United States Government Printing Office, 732 N. Capitol Street, N.W., Washington, D.C. 20401. Copies of the SAE standards are available for review at the Washington State Patrol, 210 11th Avenue, Olympia, WA 98504, and may also be ordered from the Society of Automotive Engineers International, 400 Commonwealth Drive, Warrendale, PA 15096.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 204-24-060 Period of use.

WSR 08-19-085
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed September 16, 2008, 1:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-04-083.

Title of Rule and Other Identifying Information: WAC 296-127-018 Coverage and exemptions of workers involved in the production and delivery of gravel, concrete, asphalt, or similar materials.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Room S119, Tumwater, WA, on October 22, 2008, at 1:00 p.m.; at the Department of Labor and Industries, Spokane Service Location, 901 North Monroe Street, Suite 100, Spokane, WA, on October 23, 2008, at 10:00 a.m.; and at the Department of Labor and Industries, Tukwila Service Location, 12806 Gateway Drive, Tukwila, WA, on October 29, 2008, at 1:00 p.m.

Date of Intended Adoption: November 18, 2008.

Submit Written Comments to: Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292, by October 29, 2008.

Assistance for Persons with Disabilities: Contact Sally Elliott by October 1, 2008, at yous235@lni.wa.gov or (360) 902-6411.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: During the last decade the prevailing wage program has seen a number of court decisions identify [identifying] the extent to which prevailing wages are required to be paid for incorporation and delivery of material on public works projects. In particular, the recent *Silverstreak* case (2007), after several years of

court action, clarified coverage for the delivery and incorporation of fill material via belly dump and end-dump trucks. In addition, a series of other published cases (*Heller, Superior Asphalt 1 & 2*) provided coverage for repairing and maintaining machinery and the delivery and incorporation of asphalt, sand, dirt, gravel, and crushed rock.

A June 1999 department policy pertaining to the delivery of wet concrete exempts that type of delivery and incorporation from prevailing wage coverage unless the workers operate machinery or use tools that screed, float, or put a finish on the concrete. As a result, the coverage of concrete work is treated differently from other delivery and incorporation work. This policy was developed in response to an unpublished court case (*Holroyd 1999*) and was put in place prior to the rulings of the court in *Silverstreak* and in *Superior Asphalt 2*. The June 1999 policy pertains to the existing version of WAC 296-127-018 and will be superseded by this rule making. One change implemented through this rule making is that the delivery of wet cement upon a public works project will be subject to prevailing wage because it amounts to incorporation of material.

It is the department's intention, through the rule process, to clarify the coverage of production and delivery services and make the coverage of work and payment of wages consistent with published case law and chapter 39.12 RCW requirement that all work upon public works is paid at prevailing wage rates. The department also seeks to ensure businesses do not encounter unanticipated costs due to a lack of understanding on coverage requirements.

Cases cited above:

Superior Asphalt & Concrete Co. v. Dep't of Labor & Indus. (Superior 1), 84 Wn. App. 401 (1996);

Heller v. McClure & Sons, Inc., 92 Wn. App. 333 (1998);

Holroyd Co., Inc. v. Dep't of Labor & Indus., 93 Wn. App. 1075 (1999) (unpublished opinion);

Superior Asphalt & Concrete Co. v. Dep't of Labor & Indus. (Superior 2), 112 Wn. App. 291 (2002);

Silverstreak, Inc. v. Dep't of Labor & Indus., 159 Wn.2d 868 (2007).

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 39.12 RCW, RCW 43.22.051, and 43.22.270.

Statute Being Implemented: Chapter 39.12 RCW and RCW 43.22.270.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: David Soma, Tumwater, Washington, (360) 902-5330; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Prevailing wage work is work done at the cost of the public. Chapter 39.04 RCW defines public works projects as those executed at the cost of the state or of any municipality. It is expected that all firms involved in the production, transportation, delivery, and incorporation of materials pass on the costs of paying prevail-

ing wage rates to the public through their submission of bids to perform public work. The costs of filing statements of intent to pay prevailing wages and affidavits of wages paid under chapter 39.12 RCW for activities covered by WAC 296-127-018, and associated administrative costs, if any, represent no more than minor costs on businesses under RCW 19.85.020(2). Proposed rules that do not impose more than minor costs on businesses in an industry are exempt from the requirement to prepare a small business economic impact statement under RCW 19.85.030 (1)(a). This proposal will not impose more than minor costs on businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail yous235@lni.wa.gov.

September 16, 2008

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 92-01-104 and 92-08-101, filed 12/18/91 and 4/1/92, effective 8/31/92)

WAC 296-127-018 Coverage and exemptions of workers involved in the production and delivery of gravel, concrete, asphalt, or similar materials. (1) The materials covered under this section ((are)) include but are not limited to: Sand, gravel, crushed rock, concrete ((mix)), asphalt, or other similar materials.

~~((1) Workers are subject to the provisions of chapter 39.12 RCW when they are employed by a contractor as defined by WAC 296-127-010(5)(c) and:~~

~~(a) They are engaged for a public works project in the production of the above listed materials in a sand or gravel pit, rock quarry, concrete mixing plant, or other similar facility; or~~

~~(b) They are engaged in the transportation of the above-listed materials for use on a public works project, whether or not they perform any work on the project site;))~~

(2) All workers, regardless of by whom employed, are subject to the provisions of chapter 39.12 RCW when they perform any or all of the following functions:

(a) They deliver or discharge any of the above-listed materials to a public works project site ~~((and perform any spreading, leveling, rolling, or otherwise participate in any incorporation of the materials into the project; or))~~;

(i) At one or more point(s) directly upon the location where the material will be incorporated into the project; or

(ii) At multiple points at the project; or

(iii) Adjacent to the location and coordinated with the incorporation of those materials.

(b) They wait at or near a public works project site ~~((participate in the incorporation of any of the above listed materials into the project; or))~~ perform any tasks subject to this section of the rule.

(c) They remove any materials from a public works construction site pursuant to contract requirements or specifications (e.g., excavated materials, materials from demolished structures, clean-up materials, etc.)~~((; or))~~.

(d) They work in a materials production facility (e.g., batch plant, borrow pit, rock quarry, etc.) which is established for a public works project for the specific, but not necessarily exclusive, purpose of supplying materials for the project.

(e) They deliver concrete to a public works site regardless of the method of incorporation.

(f) They assist or participate in the incorporation of any materials into the public works project.

(3) All travel time that relates to the work covered under subsection (2) of this section requires the payment of prevailing wages. Travel time includes time spent waiting to load, loading, transporting, waiting to unload, and delivering materials. Travel time would include all time spent in travel in support of a public works project whether the vehicle is empty or full. For example, travel time spent returning to a supply source to obtain another load of material for use on a public works site or returning to the public works site to obtain another load of excavated material is time spent in travel that is subject to prevailing wage. Travel to a supply source, including travel from a public works site, to obtain materials for use on a private project would not be travel subject to the prevailing wage.

(4) Workers are not subject to the provisions of chapter 39.12 RCW when(±) they deliver materials to a stockpile.

(a) ((The employees' duties do not include spreading, leveling, rolling, or otherwise participating in the incorporation of the delivered materials into a public works project, and they are employed by an established materials supplier either in the production or delivery of sand, gravel, crushed rock, concrete mix, asphalt or other similar materials;

(b) They are employed by a common or contract carrier trucking company principally or exclusively engaged in the hauling or delivery of such products, and the employees' duties do not include spreading, leveling, rolling, or otherwise participating in the incorporation of the delivered materials into a public works project; or

(c) Their employer is engaged in the production and stockpiling of such materials for unspecified future use by the state of Washington or by municipalities as defined by RCW 39.04.010.

(4)) A "stockpile" is defined as materials delivered to a pile located away from the site of incorporation such that the stockpiled materials must be physically moved from the stockpile and transported to another location on the project site in order to be incorporated into the project.

(b) A stockpile does not include any of the functions described in subsection (2)(a) through (f) of this section; nor does a stockpile include materials delivered or distributed to multiple locations upon the project site; nor does a stockpile include materials dumped at the place of incorporation, or adjacent to the location and coordinated with the incorporation.

(5) The applicable prevailing wage rate shall be determined by the locality in which the work is performed. Workers subject to ((the provisions of chapter 39.12 RCW, as outlined in)) subsection ((+)) (2)(d) of this section, who produce such materials at an off-site facility shall be paid the applicable prevailing wage rates for the county in which the off-site facility is located. Workers subject to ((the provisions

of chapter 39.12 RCW, as outlined in)) subsection ((+)) (2) of this section, who deliver such materials to a public works project site shall be paid the applicable prevailing wage rates for the county in which the public works project is located.

WSR 08-19-096

PROPOSED RULES

GAMBLING COMMISSION

[Filed September 16, 2008, 4:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-08-006.

Title of Rule and Other Identifying Information: WAC 230-15-320 Surveillance room requirements for house-banked card game licensees.

Hearing Location(s): DoubleTree Hotel Seattle Airport, 18740 International Boulevard, Seattle, WA 98188, on November 14, 2008, at 9:30 a.m.

Date of Intended Adoption: November 14, 2008.

Submit Written Comments to: Susan Arland, P.O. Box 42400, Olympia, WA 98504-2400, e-mail Susan2@wsgc.wa.gov, fax (360) 486-3625, by November 1, 2008.

Assistance for Persons with Disabilities: Contact Gail Grate, executive assistant, by November 1, 2008, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Recreational Gaming Association (RGA) is requesting that house-banked card game licensees not be required to have a staffed surveillance room when they operate only nonhouse-banked card games.

Staff has been working with the industry on this rule change.

The RGA states that licensees only operating nonhouse-banked games should not be held to a higher standard because they, at times, also operate house-banked games. The RGA states that the increased cost for providing a staffed surveillance room on nonhouse-banked games is not warranted.

At the May 2008 meeting, the commission denied a petition from the RGA for a less defined and broader request because of regulatory concerns. At the meeting, director Day said staff would work with the RGA to clarify their request and work towards an alternative that would satisfy the industry and meet our regulatory requirements.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

Name of Proponent: Recreational Gaming Association, private.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to

RCW 19.85.025 because the change would not impose additional costs on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

August 20, 2008
Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 611, filed 4/24/07, effective 1/1/08)

WAC 230-15-320 Surveillance room requirements for house-banked card game licensees. House-banked card game licensees must maintain one or more surveillance rooms. They must:

(1) Control access to the surveillance room so that only surveillance department employees use the room. Owners or their approved supervisory or management personnel may also enter the surveillance room to monitor activities. Licensees may allow authorized personnel to escort any other person into the surveillance room for educational, investigative, or maintenance purposes; and

(2) Ensure that surveillance room entrances are not easily observed from the gambling floor; and

(3) Ensure that a surveillance employee is present in the room and monitoring activities using the equipment any time the card room is conducting gambling and during the count process. However, licensees may operate the surveillance room without staff.

(a) For routine breaks that are less than thirty minutes per shift; ~~((and))~~ or

(b) When only nonhouse-banked card games are operated.

(4) Ensure that any time a winning wager, a jackpot, or bonus pay out greater than one thousand dollars is won, they use pan-tilt-zoom (PTZ) cameras to verify:

(a) Winning hands; and

(b) Amounts of the wager; and

(c) Amounts of the pay out; and

(d) Players who won the prize.

WSR 08-19-097

PROPOSED RULES

GAMBLING COMMISSION

[Filed September 16, 2008, 4:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-08-007.

Title of Rule and Other Identifying Information: WAC 230-15-050 Minimum cash on hand requirements.

Hearing Location(s): DoubleTree Hotel Seattle Airport, 18740 International Boulevard, Seattle, WA 98188, on November 14, 2008, at 9:30 a.m.

Date of Intended Adoption: November 14, 2008.

Submit Written Comments to: Susan Arland, P.O. Box 42400, Olympia, WA 98504-2400, e-mail Susan2@wsgc.wa.gov, fax (360) 486-3625, by November 1, 2008.

Assistance for Persons with Disabilities: Contact Gail Grate, executive assistant, by November 1, 2008, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Recreational Gaming Association (RGA) requests that:

1. Licensees must meet this requirement within three hours of opening. Currently, they must meet the cash on hand requirement when they open. This change will accommodate at least one licensee.

2. Cash on premises in the safe and vault, in addition to the cage, be counted towards the minimum cash on hand requirement.

Staff has been working with the industry on this rule change.

At the May 2008 meeting, the commission denied a petition from the RGA for a similar request because it would have allowed funds in the ATM to count toward the minimum cash on hand requirements. At the meeting, director Day said staff would work with the RGA to clarify their request and work towards an alternative that would satisfy the industry and meet our regulatory requirements.

The RGA states they support having minimum cash on hand requirements; however, upon implementation on January 1, 2008, smaller licensees have experienced challenges meeting these requirements prior to completing their count.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

Name of Proponent: Recreational Gaming Association, private.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025 because the change would not impose additional costs on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

August 20, 2008

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 620, filed 11/20/07, effective 1/1/08)

WAC 230-15-050 Minimum cash on hand requirements. (1) Card game licensees must have sufficient cash on hand to redeem all chips issued for play and pay out all prizes.

(2) ~~((Before))~~ Within three hours of opening for the business day, at a time included in the internal controls, house-

banked card game licensees must have at least the following minimum amount of cash on premises in their cage, safe, and vault combined:

(a) One thousand dollars for each house-banked table on the gambling floor; plus

(b) The amount of the largest single prize available or not more than twenty thousand dollars.

For example: If a house-banked card room has fifteen house-banked tables and a largest single prize of twenty-three thousand dollars, before opening, the cage must have at least thirty-five thousand dollars on hand: 15 tables x \$1,000 = \$15,000 + largest single prize or \$20,000 = \$35,000).

(3) Except for the restrictions on player-supported jackpot pay outs in WAC 230-15-405 and progressive jackpot pay outs in WAC 230-15-690, licensees may pay prizes by check if sufficient funds are available on deposit.

(4) Failure to keep funds to cash in chips, pay prizes, or redeem gambling related checks is prima facie evidence of fraud. Meeting the minimum cage cash amount does not relieve the licensee from the requirement to have sufficient funds available to redeem all chips and pay out all prizes.

WSR 08-19-098

PROPOSED RULES

GAMBLING COMMISSION

[Filed September 16, 2008, 4:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-177.

Title of Rule and Other Identifying Information: WAC 230-17-010 Requesting and scheduling a hearing.

Hearing Location(s): DoubleTree Hotel Seattle Airport, 18740 International Boulevard, Seattle, WA 98188, on November 14, 2008, at 9:30 a.m.

Date of Intended Adoption: November 14, 2008.

Submit Written Comments to: Susan Arland, P.O. Box 42400, Olympia, WA 98504-2400, e-mail Susan2@wsgc.wa.gov, fax (360) 486-3625, by November 1, 2008.

Assistance for Persons with Disabilities: Contact Gail Grate, Executive Assistant, by November 1, 2008, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Staff proposes removing subsections (4)(a) and (b) from this rule to make it consistent with the Administrative Procedure Act (APA).

This rule outlines the notice of hearing timeline and the requirements for any extensions. In some circumstances, the current version of the rule provides a shorter timeline than what the APA requires. RCW 34.05.419, APA, requires, in part, for the agency to commence an adjudicative proceeding after receipt of the application for an adjudicative proceeding. During the rules simplification project, we rewrote this rule to clarify that we must issue a notice of hearing within ninety days of the request/application for a hearing or get an extension. The extension must be in writing and made a part of the permanent record of the proceeding.

Case law has interpreted the ninety-day requirement as satisfied by scheduling a prehearing conference or a hearing.

The current version of the rule adds more stringent requirements beyond the APA because it does not recognize the prehearing conferences satisfy the APA requirement. Also, the communications and legal division typically receive a waiver of the ninety days from licensees/applicants, if settlement negotiations are ongoing or the licensee/applicant is working with staff to get into compliance with our rules.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025 because the change would not impose additional costs on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

August 20, 2008

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 615, filed 10/24/07, effective 1/1/08)

WAC 230-17-010 Requesting and scheduling a hearing. (1) Applicants, licensees, or permittees may request a hearing using the form we provide.

(2) We must receive the request from the applicant, licensee, or permittee at our administrative office within:

(a) Twenty-three days after we mail by regular mail the notice of administrative charges; or

(b) Twenty days after they receive by certified mail the notice of administrative charges; or

(c) Twenty days after we personally serve the notice of administrative charges.

(3) If applicants, licensees, or permittees do not file requests in the time required, then they waive their right to a hearing. They are in default, as defined in RCW 34.05.440, and the commissioners may take action against them up to the maximum penalty stated in the notice of administrative charges.

(4) The director, director's designee, or the presiding officer of the hearing must issue a notice of hearing which meets the requirements of RCW 34.05.434(2).

~~((a) The notice must be issued within ninety days from the date on which we receive the request from the licensee, applicant, or permittee, unless all parties agree to or the presiding officer orders an extension beyond the ninety days.~~

~~(b) Any change of the ninety-day requirement must be:~~

~~(i) In writing; and~~

~~(ii) Made a part of the permanent record of the proceeding.)~~

WSR 08-19-100
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health and Recovery Services Administration)

[Filed September 17, 2008, 6:34 a.m.]

Supplemental Notice to WSR 08-15-129.

Preproposal statement of inquiry was filed as WSR 07-03-057.

Title of Rule and Other Identifying Information: The department is creating and amending sections in chapter 388-537 WAC: Amending WAC 388-537-0100 School-based healthcare services for children in special education—Purpose; and new sections WAC 388-537-0200 School-based healthcare services for children in special education—Definitions, 388-537-0300 School-based healthcare services for children in special education—Client eligibility, 388-537-0350 School-based healthcare services for children in special education—Provider qualifications, 388-537-0400 School-based healthcare services for children in special education—Covered services, 388-537-0500 School-based healthcare services for children in special education—Noncovered services, 388-537-0600 School-based healthcare services for children in special education—School district requirements for billing and payment, 388-537-0700 School-based healthcare services for children in special education, and 388-537-0800 School-based healthcare services for children in special education—Program monitoring/audits.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094, on October 21, 2008, at 10:00 a.m.

Date of Intended Adoption: Not sooner than October 22, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on October 21, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by October 14, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rules were originally proposed as WSR 08-15-129 and a public hearing was held on August 26, 2008. As a result of additional comments received, the department makes revisions to the proposed rules to include:

- Expanding the definitions in WAC 388-537-0200, and
- Naming the appropriate documentation the provider is required to maintain on site for program audits and monitoring in WAC 388-537-0350 and 388-537-0800.

The changes make it easier for the school districts to comply with program rule, thus providing qualified service to the children in special education.

Reasons Supporting Proposal: To ensure continuing federal participation in the state's payments for school-based healthcare services.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.500.

Statute Being Implemented: RCW 74.09.500, 42 C.F.R. 440.110.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, health and recovery services, governmental.

Name of Agency Personnel Responsible for Drafting: Jonell Blatt, HRSA, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1571; Implementation and Enforcement: Chris Bess, HRSA, P.O. Box 45530, Olympia, WA 98504-5530, (360) 725-1668.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department is not required to prepare a small business economic impact statement when it adopts rules that simply conform to and/or comply with a federal statute or regulation. Instead, according to RCW 19.85.061, the following statement applies: 42 C.F.R. 440.110 is the specific federal statute or regulation under which the rule is conforming; and according to RCW 74.04-015 programs administered by the department must conform to federal requirements with respect to eligibility for the receipt of federal grants or funds.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jonell Blatt, P.O. Box 45504, Olympia, WA 98504 [98504]-5504, phone (360) 866-3545, fax (360) 586-9727, e-mail blattj@dshs.wa.gov.

Note: The cost-benefit analysis has been revised to reflect the changes in this supplemental proposal.

September 11, 2008

Stephanie E. Schiller

Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-02-076, filed 12/29/00, effective 1/29/01)

WAC 388-537-0100 ((~~School medical services for students in special education programs~~)) School-based healthcare services for children in special education

Purpose. (1) ~~((The medical assistance administration (MAA) pays school districts or educational service districts (ESD) for qualifying medical services provided to an eligible student. To be covered under this section, the student must be eligible for Title XIX (i.e., either the categorically needy or medically needy programs).~~

~~(2) To qualify for payment under this section, the medical services must be provided:~~

~~(a) By the school district or the ESD; and~~

~~(b) To the eligible special education student as part of the student's individualized education program (IEP) or individualized family service plan (IFSP).~~

(3) To qualify for payment under this section, the medical services must be provided by one of the following service providers:

~~(a) A qualified Medicaid provider as described under WAC 388-502-0010;~~

~~(b) A psychologist, licensed by the state of Washington or granted an educational staff associate (ESA) certificate by the state board of education;~~

~~(c) A school guidance counselor, or a school social worker, who has been granted an ESA certificate by the state board of education; or~~

~~(d) A person trained and supervised by any of the following:~~

~~(i) A licensed registered nurse;~~

~~(ii) A licensed physical therapist or psychiatrist;~~

~~(iii) A licensed occupational therapist; or~~

~~(iv) A speech pathologist or audiologist who:~~

~~(A) Has been granted a certificate of clinical competence by the American speech, hearing, and language association;~~

~~(B) Is a person who completed the equivalent educational and work experience necessary for such a certificate; or~~

~~(C) Is a person who has completed the academic program and is acquiring supervised work experience to qualify for the certificate.~~

(4) Student service recommendations and referrals must be updated at least annually.

(5) The student does not need a provider prescription to receive services described under this section.

(6) MAA pays for school-based medical services according to the department established rate or the billed amount, whichever is lower.

(7) MAA does not pay individual school practitioners who provide school-based medical services.

(8) For medical services billed to Medicaid, school districts or ESD, must pursue third-party resources)) The department of social and health services (DSHS) pays school districts for school-based healthcare services provided to children in special education in accordance with the individuals with disabilities education act (IDEA). The services must:

(a) Address the physical and/or mental disabilities of a child;

(b) Be prescribed or recommended by a physician or other qualified healthcare provider within his or her scope of practice under state law; and

(c) Be included in the child's individualized education program (IEP).

NEW SECTION

WAC 388-537-0200 School-based healthcare services for children in special education—Definitions. The following definitions and those found in WAC 388-500-0005 apply to this chapter:

"Assessment" - For purposes of this chapter an assessment is made-up of tests given to an individual child by qualified professionals to evaluate whether a child is determined to be a child with a disability and in need of special education and related services. Assessments are a part of the evaluation and re-evaluation processes.

"Child with a disability" - For purposes of this chapter, a child with a disability means a child evaluated and determined to need special education and related services because of a disability in one or more of the following eligibility categories:

- Mental retardation;
- Hearing impairment (including deafness);
- Speech or language impairment;
- Serious emotional disturbance (emotional behavioral disability);
- Orthopedic impairment;
- Autism;
- Traumatic brain injury;
- Other health impairment;
- Specific learning disability;
- Deaf/blindness;
- Multiple disabilities; or
- A developmental delay for children ages three through nine, with an adverse educational impact, the results of which require special education and related direct services.

"Direct healthcare services" - Services provided directly to a child either one-on-one or in a group setting.

"Educational staff associate (ESA) certification" - The ESA certificate is an official document that attests to minimum prerequisites of age, moral character/fitness, education, experience, competence, and preparation program, depending on the certificate types. The ESA certification is required to serve in a Washington public school.

"Evaluation" - Procedures used according to WAC 392-172A-03005 through 392-172A-03080 to determine whether a student has a disability, and the nature and extent of the special education and related services needed.

"Fee-for-service" - For the purpose of this section, the general payment method the department uses to reimburse providers for covered medical services provided to medical assistance clients when those services are not covered under the department's managed care plans or state children's health insurance program (SCHIP).

"Individuals with disabilities education act (IDEA)" - The IDEA is a United States federal law that governs how states and public agencies provide early intervention, special education, and related services to children with disabilities. It addresses the educational needs of children with disabilities from birth to age of twenty-one.

"Individualized education program (IEP)" - A written statement of an educational program for a student eligible for special education. (See WAC 392-172A-03090 through 392-172A-03135.)

"Qualified healthcare provider" - See WAC 388-537-0350.

"Re-evaluation" - Procedures used to determine whether a student continues to be in need of special education and related services. (See WAC 392-172A-03015.)

"Related services" - Developmental, corrective, and other supportive services required to assist an eligible student to benefit from special education. For purposes of this program, related services include: physical therapy, occupational therapy, speech-language therapy, audiology services, psychological assessments, counseling, and nursing services.

NEW SECTION

WAC 388-537-0300 School-based healthcare services for children in special education—Client eligibility. Children in special education must be receiving Title XIX Medicaid under a categorically needy program (CNP) or medically needy program (MNP) to be eligible for school-based healthcare services. Eligible children enrolled in a managed care organization (MCO) receive school-based healthcare services on a fee-for-service basis.

NEW SECTION

WAC 388-537-0350 School-based healthcare services for children in special education—Provider qualifications. The department pays school districts to provide certain healthcare services (see WAC 388-537-0400) to eligible children (see WAC 388-567-0300). These services must be provided by qualified healthcare providers who meet Washington state and federal requirements and operate within the scope of their practitioner's license:

- (1) Audiology services delivered by:
 - (a) A licensed audiologist; or
 - (b) A school-based audiologist who:
 - (i) Meets the education and work experience necessary for a state professional license;
 - (ii) Holds a valid school audiologist educational staff associate certificate; and
 - (iii) Limits their audiology services to the school setting.
- (2) Counseling services delivered by:
 - (a) A licensed independent social worker;
 - (b) A licensed advanced social worker;
 - (c) A licensed mental health counselor; or
 - (d) A school-based social worker or mental health counselor who:
 - (i) Meets the education and work experience necessary for a state professional license;
 - (ii) Holds a valid school social worker or school counselor educational staff associate certificate; and
 - (iii) Limits their counseling services to the school setting.
- (3) Nursing services delivered by:
 - (a) A licensed registered nurse;
 - (b) A licensed practical nurse; or
 - (c) A noncredentialed school employee who is delegated certain limited healthcare tasks by a registered nurse and, trained and supervised according to professional practice standards.
- (4) Occupational therapy services delivered by:
 - (a) A licensed occupational therapist; or
 - (b) A certified occupational therapy assistant supervised by a licensed occupational therapist in accordance with professional practice standards.
- (5) Physical therapy services delivered by:
 - (a) A licensed physical therapist; or
 - (b) A licensed physical therapist assistant supervised by a licensed physical therapist in accordance with professional practice standards.
- (6) Psychological services delivered by:
 - (a) A licensed psychologist; or
 - (b) A school-based psychologist who:
 - (i) Holds a masters degree in school psychology;
 - (ii) Holds a valid school psychologist educational staff associate certificate; and
 - (iii) Limits their psychological services to the school setting.

- (c) A school-based psychologist who:
 - (i) Holds a doctoral degree in psychology;
 - (ii) Holds a valid school psychologist educational staff associate certificate; and
 - (iii) Limits their psychological services to the school setting.
- (7) Speech therapy services delivered by:
 - (a) A licensed speech-language pathologist;
 - (b) A speech-language pathology assistant, who has graduated from a speech-language pathology assistant program, and is supervised by a speech-language pathologist with a certificate of clinical competence (CCC) in accordance with professional practice standards; or
 - (c) A school-based speech-language pathologist who:
 - (i) Meets the education and work experience necessary for a state professional license;
 - (ii) Holds a valid school speech-language pathologist educational staff associate certificate; and
 - (iii) Limits their speech therapy services to the school setting.
- (8) For services provided under the supervision of a physical therapist, occupational therapist or speech-language pathologist the following requirements apply:
 - (a) The nature, frequency and length of the supervision must be provided in accordance with professional practice standards and adequate to assure the child receives quality therapy services.
 - (b) At a minimum, supervision must be one-on-one communication between the supervisor and the supervised professional.
 - (c) Documentation of supervisory activities must be on record and available to the department upon request.
- (9) It is the responsibility of the school district to assure providers meet the professional requirements necessary for reimbursement.

NEW SECTION

WAC 388-537-0400 School-based healthcare services for children in special education—Covered services. Covered services include:

- (1) Evaluations, when the child is determined to be a child with a disability and in need of special education and related services;
- (2) Direct healthcare services including:
 - (a) Audiology;
 - (b) Counseling;
 - (c) Nursing;
 - (d) Occupational therapy;
 - (e) Physical therapy;
 - (f) Psychological assessments;
 - (g) Speech-language therapy.
- (3) Re-evaluations, to determine whether the child continues to need special education and related services.

NEW SECTION

WAC 388-537-0500 School-based healthcare services for children in special education—Noncovered services. Noncovered services include, but are not limited to the following:

- (1) Attending meetings;
- (2) Charting;
- (3) Equipment preparation;
- (4) Instructional assistant contact;
- (5) Parent consultation;
- (6) Parent contact;
- (7) Planning;
- (8) Preparing and sending correspondence to parents or other professionals;
- (9) Professional consultation;
- (10) Report writing;
- (11) Review of records;
- (12) Set-up;
- (13) Teacher contact;
- (14) Test interpretation;
- (15) Travel; and
- (16) Observation.

NEW SECTION

WAC 388-537-0600 School-based healthcare services for children in special education—School district requirements for billing and payment. To receive payment from the department for school-based healthcare services, a school district must:

- (1) Have a current, signed core provider agreement with the department;
- (2) Meet the applicable requirements in chapter 388-502 WAC; and
- (3) Bill according to the department's published school-based healthcare services billing instructions.

NEW SECTION

WAC 388-537-0700 School-based healthcare services for children in special education—School district documentation requirements. (1) The school districts must maintain sufficient documentation to support and justify the paid claims, to include, at a minimum:

- (a) Professional assessment reports;
 - (b) Evaluation and re-evaluation reports;
 - (c) Individualized education program (IEP); and
 - (d) Treatment notes for each date of service the provider billed to the department.
- (2) All provider licenses and other credentials must be current and on file with the school district and available for review upon request.
- (3) All records must be easily and readily available to the department upon request.

NEW SECTION

WAC 388-537-0800 School-based healthcare services for children in special education—Program moni-

toring/audits. (1) School districts must participate in the monitoring process.

(2) The department monitors school-based healthcare services as established by the school-based healthcare services program manager and in compliance with the department's monitoring policy and plan.

(3) The department conducts audits of school-based healthcare services in accordance with chapter 388-502A WAC.

(4) The department authority to conduct audits and recover overpayments is found in RCW 74.09.200, 74.09.220 and 74.09.290.

WSR 08-19-101**PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed September 17, 2008, 6:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-09-012.

Title of Rule and Other Identifying Information: The department is amending WAC 388-106-0225 How do I pay for MPC? and 388-515-1505 Financial eligibility requirements for long-term care services under COPEs, New Freedom, PACE, MMIP, and WMIP; and creating new WAC 388-515-1506 through 388-515-1509.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094, on October 21, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 22, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSR-PAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on October 21, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by October 14, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DSHS is amending WAC 388-106-0225 and 388-515-1505 as follows:

- Increasing the personal needs allowance allowed in alternate living facilities (boarding homes and adult family homes) by 3.3% effective July 1, 2008. This increase does not apply to state funded general assistance personal needs allowance grants.
- Changing the personal needs allowance allowed for medicaid personal care in alternate living facilities to match the HCS CN waiver PNA amount of

\$62.79. The new PNA amount includes the \$20 disregard. This change is effective January 1, 2009.

- Removing references to the medicare/medicaid integration project (MMIP), as this program will be phased out in 2008.
- WAC 388-515-1505 will be separated into additional WACs for clarity and readability.
- Clarifying in WAC 388-515-1505 that clients on waiver services in a residential setting contribute up to the state rate of the cost of care as long as there is eligibility for the waiver service.
- DSHS is clarifying WAC 388-106-0225 to state that a GA-X, GA-D, or GA-A client in an adult family home, receiving a \$339 grant, is allowed to keep a PNA of \$38.84 per month. The remainder of the grant must be paid to the adult family home as room and board. A GA-X, GA-D, or GA-A client residing in all other residential facilities (boarding homes) receive a GA-X, GA-D, or GA-A grant of \$38.84.

DSHS is creating WAC 388-515-1506 through 388-515-1509 to break up WAC 388-515-1505 to make it easier to understand.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530.

Statute Being Implemented: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lori Rolley, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2271.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the rules and determined that no new costs will be imposed on small businesses or nonprofit organizations.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are exempt per RCW 34.05.328 (5)(b)(vii), relating only to client medical or financial eligibility.

September 8, 2008

Stephanie E. Schiller

Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-11-047, filed 5/15/08, effective 6/15/08)

WAC 388-106-0225 How do I pay for MPC? (1) If you live in your own home, you do not participate toward the cost of your personal care services.

(2) If you live in a residential facility and are:

(a) An SSI beneficiary who receives only SSI income, you only pay for board and room. You are allowed to keep a personal needs allowance of forty-one dollars and ((twelve)) forty-four cents per month. Effective January 1, 2009 this amount will change to sixty-two dollars and seventy-nine cents;

(b) An SSI beneficiary who receives SSI and ((SSA benefits)) another source of income, you only pay for board and room. You are allowed to keep a personal needs allowance of forty-one dollars and ((twelve)) forty-four cents. You keep an additional twenty dollars ((disregard)) from non-SSI income. Effective January 1, 2009 this amount will change to sixty-two dollars and seventy-nine cents. This new amount includes the twenty dollar disregard;

(c) An SSI-related person under WAC 388-475-0050, you may be required to participate towards the cost of your personal care services in addition to your board and room if your financial eligibility is based on the facility's state contracted rate described in WAC 388-513-1305. You are allowed to keep a personal needs allowance of forty-one dollars and ((twelve)) forty-four cents. You keep an additional twenty dollars ((disregard)) from non-SSI income. Effective January 1, 2009 this amount will change to sixty-two dollars and seventy-nine cents. This new amount includes the twenty dollar disregard; or

(d) A ((GA-X)) general assistance client eligible for categorically needy Medicaid coverage in ((a residential care facility)) an adult family home (AFH), you are allowed to keep a personal needs allowance (PNA) of ((only)) thirty-eight dollars and eighty-four cents per month. The remainder of your ((grant)) income must be paid to the ((facility)) AFH as your room and board up to the ADSA room and board standards.

(e) A general assistance client eligible for categorically needy Medicaid coverage in a boarding home, you are authorized a personal needs grant of up to thirty-eight dollars and eighty-four cents per month.

(f) Personal needs allowance (PNA) standards and the ADSA room and board standard can be found at <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/ltcstandardsPNAchartsufile.shtml>.

(3) The department pays the residential care facility from the first day of service through the:

(a) Last day of service when the Medicaid resident dies in the facility; or

(b) Day of service before the day the Medicaid resident is discharged.

AMENDATORY SECTION (Amending WSR 07-19-127, filed 9/19/07, effective 10/20/07)

WAC 388-515-1505 ~~((Financial eligibility requirements for long term care services under COPES, New Freedom, PACE, MMIP, and WMIP)) Long-term care home and community based services and hospice.~~ (1) ~~((This section describes the financial eligibility requirements and the rules used to determine a client's participation in the total cost of care for home or community-based long-term care (LTC) services provided under the following programs:~~

~~((a) Community options program entry system (COPES);~~

~~((b) Program of all inclusive care for the elderly (PACE);~~

~~((c) Medicare/Medicaid integration project (MMIP);~~

~~((d) Washington Medicaid integration partnership (WMIP);~~

~~((e) New Freedom consumer directed services (New Freedom); and~~

(f) Hospice services for clients not in a medical institution with gross income at or below the SIL and not eligible for another CN or MN Medicaid program.

(2) To be eligible, a client must:

(a) Meet the program and age requirements for the specific program, as follows:

- (i) COPES, per WAC 388-106-0310;
- (ii) PACE, per WAC 388-106-0705;
- (iii) MMIP waiver services, per WAC 388-106-0725;
- (iv) WMIP waiver services, per WAC 388-106-0750;
- (v) New Freedom, per WAC 388-106-1410; or
- (vi) Hospice, per chapter 388-551 WAC.

(b) Meet the aged, blind or disability criteria of the Supplemental Security Income (SSI) program as described in WAC 388-475-0050(1);

(c) Require the level of care provided in a nursing facility as described in WAC 388-106-0355;

(d) Be residing in a medical facility as defined in WAC 388-500-0005, or likely to be placed in one within the next thirty days in the absence of home or community-based LTC services provided under one of the programs listed in subsection (1) of this section;

(e) Have attained institutional status as described in WAC 388-513-1320;

(f) Be determined in need of home or community-based LTC services and be approved for a plan of care as described in subsection (2)(a);

(g) Be able to live at home with community support services and choose to remain at home, or live in a department-contracted:

- (i) Enhanced adult residential care (EARC) facility;
- (ii) Licensed adult family home (AFH); or
- (iii) Assisted living (AL) facility.

(h) Not be subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1363, 388-513-1364, 388-513-1365 and 388-513-1366; and

(i) Meet the resource and income requirements described in subsections (3), (4), and (5) or be an SSI beneficiary not subject to a penalty period as described in subsection (2)(h).

(3) Refer to WAC 388-513-1315 for rules used to determine countable resources, income and eligibility standards.

(4) Excess resources are reduced in an amount equal to medical expenses incurred by the institutional client as described in WAC 388-513-1350 and:

(a) Must result in countable resources being at or below the resource standard in WAC 388-513-1350(1).

(b) If remaining resources are over the standard, the client is ineligible.

(5) Nonexcluded income must be at or below the SIL (300% of the federal benefit rate (FBR)) and is allocated in the following order:

(a) An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;

(b) Maintenance and personal needs allowances as described in subsection (7), (8), (9), (10), and (11) of this section;

(c) Guardianship fees and administrative costs including any attorney fees paid by the guardian only as allowed by chapter 388-79 WAC;

(d) Income garnished for child support or withheld according to a child support order in the month of the garnishment (for current and back support):

(i) For the time period covered by the PNA; and

(ii) Is not counted as the child's income when determining the family allocation amount.

(e) Monthly maintenance needs allowance for the community spouse not to exceed that in WAC 388-513-1380 (5)(b) unless a greater amount is allocated as described in subsection (6) of this section. This amount:

(i) Is allowed only to the extent that the client's income is made available to the community spouse; and

(ii) Consists of a combined total of both:

(A) One hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>); and

(B) Excess shelter expenses. For the purposes of this section, excess shelter expenses are the actual required maintenance expenses for the community spouse's principal residence. These expenses are:

(I) Rent;

(II) Mortgage;

(III) Taxes and insurance;

(IV) Any maintenance care for a condominium or cooperative; and

(V) The food assistance standard utility allowance (for LTC services this is set at the standard utility allowance (SUA) for a four person household), provided the utilities are not included in the maintenance charges for a condominium or cooperative;

(VI) LESS the standard shelter allocation. This standard is based on thirty percent of one hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>); and

(VII) Is reduced by the community spouse's gross countable income.

(f) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community or institutionalized spouse based on the living arrangement of the dependent. If the dependent:

(i) Resides with the community spouse, the amount is equal to one-third of the community spouse income allocation as described in WAC 388-513-1380 (5)(b)(i)(A) that exceeds the dependent family member's income;

(ii) Does not reside with the community spouse, the amount is equal to the MNIL for the number of dependent family members in the home less the income of the dependent family members.

(iii) Child support received from a noncustodial parent is the child's income;

(g) Medical expenses incurred by the client and not used to reduce excess resources. Allowable medical expenses and reducing excess resources are described in WAC 388-513-1350.

(6) The amount allocated to the community spouse may be greater than the amount in subsection (5)(e) only when:

(a) A court enters an order against the client for the support of the community spouse; or

~~(b) A hearing officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.~~

~~(7) A client who receives SSI, and lives at home as defined in WAC 388-106-0010 does not use income to participate in the cost of personal care.~~

~~(8) A client who receives SSI and lives in an enhanced adult residential center (EARC), adult family home (AFH) or assisted living (AL) does not use income to participate in the cost of personal care and:~~

~~(a) Retains a personal needs allowance (PNA) of sixty dollars and seventy-eight cents; and~~

~~(b) Uses income to pay the facility for the cost of room and board.~~

~~(c) Room and board is the SSI FBR minus sixty dollars and seventy-eight cents.~~

~~(9) A client who is eligible to receive CN-P Medicaid described in WAC 388-475-0100 (2)(a) and (b) and lives at home, defined in WAC 388-106-0010, does not use income to participate in the cost of personal care.~~

~~(10) A client who is eligible to receive CN-P Medicaid described in WAC 388-475-0100 (2)(a) and (b) and lives in an EARC, AFH or AL does not use income to participate in the cost of personal care and:~~

~~(a) Retains a personal needs allowance (PNA) of sixty dollars and seventy-eight cents; and~~

~~(b) Uses income to pay the facility for the cost of room and board.~~

~~(c) Room and board is the SSI FBR minus sixty dollars and seventy-eight cents.~~

~~(11) An institutionalized SSI-related client living:~~

~~(a) At home, retains a maintenance needs amount equal to the following:~~

~~(i) Up to one hundred percent of the one-person FPL, if the client is:~~

~~(A) Single; or~~

~~(B) Married, and is:~~

~~(I) Not living with the community spouse; or~~

~~(H) Whose spouse is receiving long-term care (LTC) services outside of the home.~~

~~(ii) Up to one hundred percent of the one-person FPL for each client, if both spouses are receiving COPES, New Freedom, PACE, MMIP, or WMIP services;~~

~~(iii) Up to the one-person medically needy income level (MNL) for a married client who is living with a community spouse who is not receiving COPES, New Freedom, PACE, MMIP, or WMIP.~~

~~(b) In an EARC, AFH, or AL, retains a maintenance needs amount equal to the SSI FBR and:~~

~~(i) Retains a personal needs allowance (PNA) of sixty dollars and seventy-eight cents from the maintenance needs; and~~

~~(ii) Pays the remainder of the maintenance needs to the facility for the cost of room and board. (Refer to subsection (14) in this section for allocation of the balance of income remaining over maintenance needs.)~~

~~(12) A client who is eligible for the general assistance expedited Medicaid disability (GAX) program does not participate in the cost of personal care. When such a client lives:~~

~~(a) At home, the client retains the cash grant amount authorized under the general assistance program;~~

~~(b) In an AFH, the client retains a PNA of thirty eight dollars and eighty four cents, and pays remaining income and GAX grant to the facility for the cost of board and room; or~~

~~(c) In an EARC or AL, the client only receives a PNA of thirty-eight dollars and eighty-four cents and retains it.~~

~~(13) The total of the following amounts cannot exceed the SIL:~~

~~(a) Maintenance and personal needs allowances as described in subsections (7), (8), (9), (10), (11), and (12).~~

~~(b) Earned income deduction of the first sixty five dollars plus one-half of the remaining earned income in subsection (5)(a); and~~

~~(c) Guardianship fees and administrative costs in subsection (5)(c).~~

~~(14) The client's remaining income after the allocations described in subsections (5) through (12) is the client's responsibility in the cost of care.) This chapter describes the general and financial eligibility requirements for categorically needy (CN) home and community based (HCB) services administered by home and community services (HCS) and hospice services administered by health and recovery services administration (HRSA).~~

~~(2) The HCB service programs are:~~

~~(a) Community options program entry system (COPES);~~

~~(b) Program of all-inclusive care for the elderly (PACE);~~

~~(c) Washington Medicaid integration partnership (WMIP); or~~

~~(d) New Freedom consumer directed services (New Freedom).~~

~~(3) Roads to community living (RCL) services. For RCL services this chapter is used only to determine your cost of care. Medicaid eligibility is guaranteed for three hundred sixty-five days upon discharge from a medical institution.~~

~~(4) Hospice services if you don't reside in a medical institution and:~~

~~(a) Have gross income at or below the special income level (SIL); and~~

~~(b) Aren't eligible for another CN or medically needy (MN) Medicaid program.~~

~~(5) WAC 388-515-1506 describes the general eligibility requirements for HCS CN waivers.~~

~~(6) WAC 388-515-1507 describes eligibility for waiver services when you are eligible for Medicaid using noninstitutional CN rules.~~

~~(7) WAC 388-515-1508 describes the initial financial eligibility requirements for waiver services when you are not eligible for noninstitutional CN Medicaid described in WAC 388-515-1507(1).~~

~~(8) WAC 388-515-1509 describes the rules used to determine your responsibility in the cost of care for waiver services if you are not eligible for Medicaid under a CN program listed in WAC 388-515-1507(1). This is also called client participation or post eligibility.~~

NEW SECTION

WAC 388-515-1506 What are the general eligibility requirements for home and community based (HCB) ser-

vices and hospice? (1) To be eligible for home and community based (HCB) services and hospice you must:

(a) Meet the program and age requirements for the specific program:

- (i) COPES, per WAC 388-106-0310;
- (ii) PACE, per WAC 388-106-0705;
- (iii) WMIP waiver services, per WAC 388-106-0750;
- (iv) New Freedom, per WAC 388-106-1410;
- (v) Hospice, per chapter 388-551 WAC; or
- (vi) Roads to community living (RCL), per WAC 388-106-0250, 388-106-0255 and 388-106-0260.

(b) Meet the disability criteria for the supplemental security income (SSI) program as described in WAC 388-475-0050;

(c) Require the level of care provided in a nursing facility described in WAC 388-106-0355;

(d) Be residing in a medical institution as defined in WAC 388-500-0005, or likely to be placed in one within the next thirty days without HCB services provided under one of the programs listed in subsection (1)(a);

(e) Have attained institutional status as described in WAC 388-513-1320;

(f) Be determined in need of services and be approved for a plan of care as described in subsection (1)(a);

(g) Be able to live at home with community support services and choose to remain at home, or live in a department-contracted:

- (i) Enhanced adult residential care (EARC) facility;
- (ii) Licensed adult family home (AFH); or
- (iii) Assisted living (AL) facility.

(h) Not be subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1363 through 388-513-1366;

(i) Not have a home with equity in excess of the requirements described in WAC 388-513-1350.

(2) Refer to WAC 388-513-1315 for rules used to determine countable resources, income, and eligibility standards for long-term care services.

(3) Current income and resource standard charts are located at: <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.html>.

NEW SECTION

WAC 388-515-1507 What are the financial requirements for home and community based (HCB) services when you are eligible for a noninstitutional categorically needy (CN) Medicaid program? (1) You are eligible for Medicaid under one of the following programs:

(a) Supplemental security income (SSI) eligibility described in WAC 388-474-0001. This includes SSI clients under 1619B status;

(b) SSI-related CN Medicaid described in WAC 388-475-0100 (2)(a) and (b);

(c) General assistance expedited Medicaid disability (GAX) or general assistance based on aged/blind/disabled criteria described in WAC 388-505-0110(6) and are receiving CN Medicaid.

(2) You are not subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-

1363 through 388-513-1366. This does not apply to PACE or hospice services.

(3) You do not have a home with equity in excess of the requirements described in WAC 388-513-1350.

(4) You do not have to meet the initial eligibility income test of having gross income at or below the special income level (SIL).

(5) You do not pay (participate) toward the cost of your personal care services.

(6) If you live in a department contracted facility listed in WAC 388-515-1506 (1)(g), you pay room and board up to the ADSA room and board standard. The ADSA room and board standard is based on the federal benefit rate (FBR) minus the current personal needs allowance (PNA) for HCS CN waivers in an alternate living facility.

(a) If you live in an assisted living (AL) facility, enhanced adult residential center (EARC), or adult family home (AFH) you keep a PNA of sixty-two dollars and seventy-nine cents and use your income to pay up to the room and board standard.

(7) If you are eligible for general assistance expedited Medicaid disability (GAX) or general assistance based on aged/blind/disabled criteria described in WAC 388-505-0110(6), you do not participate in the cost of personal care and you may keep the following:

(a) When you live at home, you keep the cash grant amount authorized under the general assistance program;

(b) When you live in an AFH, you keep a PNA of thirty-eight dollars and eighty-four cents, and pay any remaining income and general assistance grant to the facility for the cost of room and board up to the ADSA room and board standard; or

(c) When you live in an assisted living facility or enhanced adult residential center, you are only eligible to receive a cash grant of thirty-eight dollars and eighty-four cents, which you keep for your PNA.

(8) Current resource and income standards are located at: <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

(9) Current PNA and ADSA room and board standards are located at: <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/lcstandardsPNAchartssubfile.shtml>.

NEW SECTION

WAC 388-515-1508 How does the department determine if you are financially eligible for home and community based (HCB) services and hospice if you are not eligible for Medicaid under a categorically needy (CN) program listed in WAC 388-515-1507(1)? (1) If you are not eligible for Medicaid under a categorically needy (CN) program listed in WAC 388-515-1507(1), the department must determine your eligibility using institutional Medicaid rules. This section explains how you may qualify using institutional Medicaid rules.

(2) You must meet the general eligibility requirements described in WAC 388-513-1315 and 388-515-1506.

(3) You must meet the following resource requirements:

(a) Resource limits described in WAC 388-513-1350.

(b) If you have resources over the standard allowed in WAC 388-513-1350, the department reduces resources over the standard by your unpaid medical expenses described in WAC 388-513-1350 (d), (e) and (f) if you verify these expenses.

(4) Your gross nonexcluded income must be at or below the special income level (SIL) which is three hundred percent of the federal benefit rate (FBR).

(5) The department follows the rules in WAC 388-515-1325, 388-513-1330, and 388-513-1340 to determine available income and income exclusions.

(6) Current resource and income standards (including the SIL and FBR) for long-term care are found at: <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandards.pna.shtml>.

NEW SECTION

WAC 388-515-1509 How does the department determine how much of my income I must pay towards the cost of my care if I am only eligible for home and community based (HCB) services under WAC 388-515-1508? If you are only eligible for Medicaid under WAC 388-515-1508, the department determines how much you must pay based upon the following:

(1) If you are single and living at home as defined in WAC 388-106-0010, you keep all your income up to the federal poverty level (FPL) for your personal needs allowance (PNA).

(2) If you are married living at home as defined in WAC 388-106-0010, you keep all your income up to the medically needy income level (MNIL) for your PNA.

(3) If you live in an assisted living (AL) facility, enhanced adult residential center (EARC), or adult family home (AFH), you:

(a) Keep a PNA from your gross nonexcluded income. The PNA is sixty-two dollars and seventy-nine cents effective July 1, 2008; and

(b) Pay for your room and board up to the ADSA room and board standard.

(4) In addition to paying room and board, you may also have to pay toward the cost of personal care. This is called your participation. Income that remains after the PNA and any room and board deduction is reduced by allowable deductions in the following order:

(a) If you are working, the department allows an earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income.

(b) Guardianship fees and administrative costs including any attorney fees paid by the guardian only as allowed by chapter 388-79 WAC;

(c) Current or back child support garnished or withheld from your income according to a child support order in the month of the garnishment if it is for the current month. If the department allows this as deduction from your income, the department will not count it as your child's income when determining the family allocation amount;

(d) A monthly maintenance needs allowance for your community spouse not to exceed that in WAC 388-513-1380

(5)(b) unless a greater amount is allocated as described in subsection (e) of this section. This amount:

(i) Is allowed only to the extent that you make your income available to your community spouse; and

(ii) Consists of a combined total of both:

(A) One hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1 (<http://aspe.os.dhhs.gov/poverty/>); and

(B) Excess shelter expenses. For the purposes of this section, excess shelter expenses are the actual required maintenance expenses for your community spouse's principal residence. These expenses are determined in the following manner:

(I) Rent, including space rent for mobile homes, plus;

(II) Mortgage, plus;

(III) Taxes and insurance, plus;

(IV) Any required payments for maintenance care for a condominium or cooperative, minus;

(V) The food assistance standard utility allowance (SUA) (for long-term care services this is set at the standard utility allowance for a four-person household), provided the utilities are not included in the maintenance charges for a condominium or cooperative, minus;

(VI) The standard shelter allocation. This standard is based on thirty percent of one hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1 (<http://aspe.os.dhhs.gov/poverty/>).

(e) Is reduced by your community spouse's gross countable income.

(f) The amount allocated to the community spouse may be greater than the amount in subsection (d)(ii) only when:

(i) There is a court order approving the higher amount for the support of your community spouse; or

(ii) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(g) A monthly maintenance needs amount for each minor or dependent child, dependent parent, or dependent sibling of your community or institutional spouse. The amount the department allows is based on the living arrangement of the dependent. If the dependent:

(i) Resides with your community spouse, the amount is equal to one-third of the community spouse allocation as described in WAC 388-513-1380 (5)(b)(i)(A) that exceeds the dependent family member's income (child support received from a noncustodial parent is considered the child's income);

(ii) Does not reside with the community spouse, the amount is equal to the MNIL based on the number of dependent family members in the home less their separate income (child support received from a noncustodial parent is considered the child's income).

(h) Your unpaid medical expenses which have not been used to reduce excess resources. Allowable medical expenses are described in WAC 388-513-1350.

(i) The total of the following deductions cannot exceed the SIL (three hundred percent of the FBR):

(i) Personal needs allowance in subsections (1), (2) and (3)(a) and (b); and

(ii) Earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income in subsection (4)(a); and

(iii) Guardianship fees and administrative costs in subsection (4)(b).

(5) You must pay your provider the combination of the room and board amount and the cost of personal care services after all allowable deductions.

(6) You may have to pay third party resources described in WAC 388-501-0200 in addition to the room and board and participation. The combination of room and board, participation, and third party resources is the total amount you must pay.

(7) Current income and resource standards for long-term care (including SIL, MNIL, FPL, FBR) are located at: <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

(8) If you are in multiple living arrangements in a month (an example is a move from an adult family home to a home setting on HCB services), the department allows you the highest PNA available based on all the living arrangements and services you have in a month.

(9) Current PNA and ADSA room and board standards are located at: <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/lcstandardsPNAchartssubfile.shtml>.

WSR 08-19-105

PROPOSED RULES

WASHINGTON STATE UNIVERSITY

[Filed September 17, 2008, 8:31 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under 08-10-107.

Title of Rule and Other Identifying Information: The university's facilities use rules are being updated, including the following changes: Amending WAC 504-28-030; repealing chapter 504-32 WAC; and creating new chapter 504-33 WAC; repealing all sections of chapter 504-34 WAC except WAC 504-34-140; renaming chapter 504-34 WAC; renaming and amending WAC 504-34-140; creating new chapter 504-35 WAC; and amending WAC 504-36-020.

Hearing Location(s): Washington State University, Lighty Room 405, Pullman, Washington, on October 30, 2008, at 4:00 p.m. to 5:00 p.m.

Date of Intended Adoption: November 21, 2008.

Submit Written Comments to: Ralph T. Jenks, Director, Procedures, Records, and Forms and University Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, e-mail jenks@wsu.edu, fax (509) 335-3969, by October 30, 2008.

Assistance for Persons with Disabilities: Contact Deborah Bartlett by October 24, 2008, (509) 335-2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The university's facilities use rules are being updated to accommodate the multicampus system, changes in laws, and changes in the university's administrative structure.

Statutory Authority for Adoption: RCW 28B.30.150.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington State University, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Campus use committee, office of business and finance, (509) 335-5524.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule has no impact on small business.

A cost-benefit analysis is not required under RCW 34.05.328. The university does not consider this rule to be a significant legislative rule.

September 17, 2008

Ralph T. Jenks, Director

Procedures, Records, and Forms
and University Rules Coordinator

AMENDATORY SECTION (Amending WSR 95-07-046, filed 3/8/95, effective 4/8/95)

WAC 504-28-030 Scheduling of events. (1) Facilities. ~~((Recognized student groups schedule facilities by contacting the appropriate campus departments. The activities/recreational sports office will assist groups in determining whom to contact:~~

~~(a) To schedule rooms in the Wilson Compton Union (CUB), contact CUB scheduling. That office will determine if a special events form needs to be completed. Forms are available in the activities/recreational sports office, CUB 337.~~

~~(b) For scheduling of departmental, faculty and student events for conferences and conventions involving people from off campus, contact the office of university relations.~~

~~(c) To schedule classrooms on campus, contact the registrar's office (French Administration Building).~~

~~(d) To schedule use of the coliseum, contact performing arts coliseum, coliseum director's office.~~

~~(e) To schedule gym facilities for use from 8:00 a.m. to 5:00 p.m. Monday through Friday, contact kinesiology, leisure studies department. Scheduling of gym facilities for use after 5:00 p.m. and on weekends is handled through the activities/recreational sports office in CUB 337.~~

~~(f) To schedule Bryan Auditorium, contact the registrar's office.~~

~~(g) To schedule R.R. Jones Theatre and Daggy Little Theatre, contact Daggy Hall, Room 251.~~

~~(h) For use of special services, contact physical plant. For use of lecterns, lighting, P.A. set-ups and janitorial services, fill out the form "Request for services for special events," available at the physical plant and activities/recreational sports office. This form must be authorized at the activities/recreational sports office before turning it into physical plant.~~

~~(i) For scheduling of the Terrell Mall or library plaza, see WAC 504-32-010.~~

~~(3) Individuals and nonuniversity groups must first contact the director of the CUB to schedule rooms in the CUB, the Terrell Mall, and the Library Plaza. Any other use by~~

individuals and nonuniversity groups must be approved by the facilities use committee.

~~(4) Time scheduling recommendations. Most buildings and facilities on campus close by midnight. Groups wishing their events to extend past this time should make arrangements with the appropriate scheduling office.~~

~~(5) Special scheduling information.~~

~~(a) The activities/recreational sports office staff is available to advise on appropriate forms, arrangements, publicity, etc.~~

~~(b) Any recognized student organization may sponsor political speakers on campus. All such groups should follow the normal procedure in scheduling.~~

~~(c) ASWSU may run concerts on a speculative basis. All other recognized student organizations may have concerts only if they have sufficient funds to back all concert expenses 100%. The activities/recreational sports office staff is available to advise on concert arrangements and contract negotiations.)~~ Student governments and registered student organizations may schedule facilities by contacting the approving authority in accordance with WAC 504-35-022. The department responsible for overseeing student government and registered student organizations on each campus (currently, the office of campus involvement on the Pullman campus) is available to assist groups in determining whom to contact to make arrangements.

The list of approving authorities for the most frequently used buildings at the Pullman campus is available in the office of business and finance. The list for all campuses is available on-line at <http://www.campus.wsu.edu/>.

(2) Special scheduling information.

(a) Staff of the department responsible for overseeing student governments and registered student organizations on each campus are available to advise those groups on the use of appropriate forms, making event arrangements, publicity for events, and related matters.

(b) Any student government or registered student organization may sponsor political speakers on campus in accordance with WAC 504-35-030(3). For the purpose of this rule, a political speaker is a candidate who has filed for public office as well as an individual who is speaking in support of or in opposition to a ballot proposition.

(c) Student governments may run concerts on a speculative basis. Registered student organizations will be allowed to use campus facilities for concerts only if they have sufficient funds to pay one hundred percent of all concert expenses for events. Staff of the department responsible for overseeing student governments and registered student organizations on each campus are available to provide assistance on their respective campuses.

(d) Committee meetings and social activities should be scheduled in facilities which are accessible to disabled ((individuals)) persons.

Chapter 504-33 WAC

FACILITY USE RULES FOR FIRST AMENDMENT/FREE SPEECH ACTIVITIES

NEW SECTION

WAC 504-33-010 Title. This chapter is known as the Washington State University facility use rules for first amendment/free speech activities.

NEW SECTION

WAC 504-33-015 Definitions. (1) "Nonuniversity group," for the purposes of this policy, means a collection of individuals that is neither a university affiliate, a registered student organization, nor a recognized employee group. The term also includes the individual members of these groups, when acting on behalf of the group, and individuals who are not currently enrolled students, current university employees, or employees of a university affiliate.

(2) "University group," for purposes of this policy, means registered student organizations as defined in WAC 504-28-010, or a recognized employee group of the university, and also encompasses the individual members of these groups when acting on behalf of the group. The term also includes individuals who are currently enrolled students or current employees.

(3) "University affiliates" or "affiliated entities" means those entities that have formal relationships with the university and also encompass those entities' officers, agents, and employees. The terms include, but are not limited to, the university foundation, the university research foundation, the office of the attorney general, the 4-H foundation, and the United States Department of Agriculture—Agricultural Research Service. A list of affiliated entities is available on the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>.

(4) "Limited public forum areas" means those areas of each campus that the university has chosen to be open as places for expressive activities protected by the first amendment, subject to reasonable time, place or manner restrictions.

(a) At the Pullman campus, the designated limited public forum areas are:

- (i) The Glenn Terrell Mall; and
- (ii) The public sidewalks adjacent to public roads.

(b) At the Spokane campus, the designated limited public forum areas are:

- (i) The patio outside the main entrance to the Phase I Classroom Building; and
- (ii) The public sidewalks adjacent to public roads.

(c) At the Tri-Cities campus, the designated limited public forum areas are:

- (i) The Atrium Courtyard; and
- (ii) The public sidewalks adjacent to public roads.

(d) At the Vancouver campus, the designated limited public forum areas are:

- (i) The area of campus plaza directly east of the cafeteria extending to the stone wall; and

(ii) The public sidewalks adjacent to public roads.

(e) In addition to the public forum areas identified herein, the chancellors of the Spokane, Tri-Cities, and Vancouver campuses and the university president may designate additional areas of the campuses under their authority as public forums. Such additional public forum areas shall be set forth in the university's business policies and procedures manual.

(5) "First amendment activities" include, but are not necessarily limited to, informational picketing, petition circulation, the distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments and/or other types of constitutionally protected assemblies to share information, perspective or viewpoints.

NEW SECTION

WAC 504-33-020 Use of limited public forum areas—Purpose. Freedom of expression is a highly valued and indispensable quality of university life, and the university desires to allow its students and employees the opportunity to utilize the facilities and grounds of the university to the fullest extent possible. The university commitment to this ideal does not, however, grant to individuals or groups an unlimited license to engage in activity which limits, interferes with, or otherwise disrupts the normal activities for and to which the university's buildings, facilities and grounds are dedicated. The purpose of these time, place, and manner regulations is to establish procedures and reasonable controls for the use of the university's limited public forum areas by both nonuniversity and university groups. It is intended to balance the university's responsibility to fulfill its mission as a state educational institution of Washington with the interests of nonuniversity groups or university groups who are interested in using the campus for purposes of constitutionally protected speech, assembly, or expression.

NEW SECTION

WAC 504-33-025 Use of limited public forum facilities. Subject to the regulations and requirements of this policy, university and nonuniversity groups may use the university's limited public forum areas for those activities protected by the first amendment.

(1) Notice to use the limited public forum areas is to be provided as follows:

(a) At the Pullman campus:

(i) To the campus police; and

(ii) For requests to use the Glenn Terrell Mall, to the scheduling office.

(b) At the Spokane campus:

(i) To the campus office of student affairs; and

(ii) To the campus security office.

(c) At the Tri-Cities campus:

(i) To the campus office of student affairs; and

(ii) To the campus security office.

(d) At the Vancouver campus:

(i) To the campus office of business affairs; and

(ii) To the campus security office.

(2) Timing of notice. All groups must provide the required notice no later than fourteen calendar days in advance of use of the limited public forum. However, events may be permitted with less notice so long as the event does not interfere with any other function occurring at the facility.

(3) Content of notice. The notice to use the public forum areas is to contain:

(a) The name, address, and telephone number of the individual, group, entity, or organization sponsoring the event or use (hereinafter "the sponsoring organization"); and

(b) The name, address, and telephone number of a contact person for the sponsoring organization; and

(c) The date, time, and requested location of the event; and

(d) The nature and purpose of the event; and

(e) The estimated number of people expected to participate in the event.

(4) Sound amplification. The use of sound amplification devices for free speech purposes is not allowed.

(5) Duration of events. In order to allow for the expression of a wide range of viewpoints and discussion of an array of issues, university group events may not last longer than eight hours per day, and may continue no longer than five days from beginning to end. Nonuniversity events and university affiliate events may not last longer than five hours per day and may continue over no more than three days, from beginning to end. These limitations upon the duration of events will be excused, on a day-to-day basis, upon request when there are no competing requests to use the facility.

(6) Distribution of materials. Signs, posters, literature, handbills, leaflets, and pamphlets may be distributed in accordance with WAC 504-34-140. The sponsoring organization is encouraged, but not required, to include its name and address on the distributed information.

(7) Commercial transactions. Speech that does no more than propose a commercial transaction is prohibited in connection with the use of the facility or event.

(8) The limited public forum used by the group must be cleaned up and left in its original condition and may be subject to inspection by a representative of the university after the event. Reasonable charges may be assessed against the sponsoring organization for the costs of cleanup or for the repair of damaged property.

(9) The use of the facility must comply with all requirements of WAC 504-35-030.

(10) The university and/or government authorities may specify additional fire, safety, sanitation, and special regulations for the event, and the user must obey those regulations.

(11) The university will not provide utility connections or hook-ups.

NEW SECTION

WAC 504-33-030 Additional requirements for scheduling at times of university authorized or sponsored events. (1) The limited public forum may not be used on the same date as any previously scheduled university event or activity at the site (aside from regularly scheduled classes) where it is reasonably anticipated that more than five hundred people will attend the university event or activity.

(2) Where more than five hundred people are expected to attend an event in Martin Stadium or Beasley Coliseum, or on the days of any football or basketball game, the following restrictions apply:

(a) The sidewalks adjacent to Martin Stadium may not be used for the three-hour period preceding a football game or other event at Martin Stadium until two hours after the game or event has ended, except that sidewalks opposite the stadium may continue to be used for first amendment activities during these time periods, so long as the activities do not unduly interfere with the flow of pedestrian or vehicular traffic. Where the free speech activity is expected to draw a crowd of more than fifty people, the Glenn Terrell Mall may not be used during these time periods.

(b) The sidewalks adjacent to Beasley Coliseum may not be used for the two-hour period preceding a game or other event at Beasley Coliseum until two hours after the game or event has ended, except that sidewalks opposite the coliseum may continue to be used for first amendment activities during these time periods, so long as the activities do not unduly interfere with the flow of pedestrian or vehicular traffic.

NEW SECTION

WAC 504-33-040 Grant and termination of license to use facilities. The university president or designee; any university vice-president; the chancellors of the Spokane, Tri-Cities, or Vancouver campuses or designees; or the designee of the vice-president for business and finance may authorize first amendment activities which are reasonably determined not to disrupt university activities, despite a literal violation of this policy statement. Such determinations will be made without consideration of the content or message of the first amendment activities.

The university president or designee; any university vice-president; the chancellors of the Spokane, Tri-Cities, or Vancouver campuses or designees; or the designee of the vice-president for business and finance may, at any time, terminate, cancel or prohibit the use of facilities if the event is disrupting normal university functions. Any of these individuals may refuse to allow a proposed use of facilities if they determine, after reasonable inquiry, that the use or event cannot be conducted without disrupting normal university functions. Such determinations will be made without consideration of the content or message of the first amendment activities.

NEW SECTION

WAC 504-33-050 Posting of a bond and hold harmless statement. When using university facilities, an individual or organization may be required to post a bond and/or obtain insurance to protect the university against cost or other liability.

When the university grants permission to use its facilities it is with the express understanding and condition that the individual or organization assumes full responsibility for any loss or damage resulting from that use.

NEW SECTION

WAC 504-33-060 Criminal trespass. Any person believed to be violating these regulations may be barred from campus in accordance with the procedures outlined in WAC 504-35-150.

Chapter 504-34 WAC

WASHINGTON STATE UNIVERSITY ((~~FACILITY-USE~~)) POSTING AND LITERATURE DISTRIBUTION REGULATIONS

AMENDATORY SECTION (Amending WSR 95-07-047, filed 3/8/95, effective 4/8/95)

WAC 504-34-140 ((~~Advertising policies~~)) Signs, posters, handbills, and fliers. ((~~The following policies apply to all advertising done on campus:~~

(1) Signs and posters:

(a) All advertising in the CUB must have approval from the activities/recreational sports office:

(b) All advertising announcements to be posted in other campus buildings should be confined to general bulletin boards. For use of other bulletin boards contact the appropriate department or residence hall for approval.

(c) No advertising should be taped to walls or other interior surfaces:

(d) All outdoor advertising is restricted to bulletin boards, the kiosks, and the west entrance of the CUB. Signs put up at the west entrance of the CUB should be approved in the activities/recreational sports office. The size is limited to twelve square feet.

(e) University related banners may be displayed on the overhead walkways after securing permission from the activities/recreational sports office. They must be constructed of fabric, with air vents, and attached to the structure with rope or twine—tape and wire are not permitted.

(f) Free standing signs may be placed on campus grounds and the mall with the approval of the director of physical plant.

(g) No signs, handbills, or stickers are to be placed on trees or buildings other than the two places mentioned above. Paint or chalk must not be used on sidewalks or buildings.

(h) Before exhibits or displays are placed on the mall, notification must be made to the disabled student services office.

(i) It is the responsibility of the group to remove advertising within twenty-four hours after the event.

(2) Literature, handbills and notices:

(a) Literature, handbills and notices may be distributed at any reasonable outdoor area on campus consistent with the orderly conduct of university affairs, the maintenance of university property, and the free flow of traffic and persons. Efforts must be made to avoid litter. Individuals or groups distributing are responsible for leaving the area clean, including all discarded handbills. Distribution by means of accosting individuals or by hawking is prohibited.

(3) Public address system:

(a) Requests for public address systems require the signature of the faculty advisor.

~~(b) Systems are available through the instructional media services:~~

~~(c) Use of systems:~~

~~(i) Time of use: Monday through Thursday, 5:00 p.m. to 7:00 p.m.; and on Saturday 12:00 noon to 7:00 p.m. (Exceptions may be made by the union board.)~~

~~(ii) Discreet and considerate use of public address systems in the vicinity of the hospital is expected.~~

~~(iii) Public address systems on moving vehicles must have a police permit.~~

~~(4) Athletic events. All advertising at athletic events must be cleared through the office of intercollegiate athletics.~~

~~(5) Advertising for student government. Advertising for student government elections shall be according to the rules established by the ASWSU election board.~~

~~(6) Advertising at registration must be approved by the registrar.))~~ The following rules apply to all users, except for the university itself.

(1) Signs, posters, placards, banners, handbills, flyers, announcements, and similar materials may be placed:

(a) Indoors:

(i) On bulletin boards that have been designated "general use" bulletin boards by the university. All other bulletin boards are reserved to the use of the university department that manages them, and only information related to university, university recognized or sponsored activities, college, or department may be posted thereon.

(ii) Bulletin boards that have been designated as general use will contain notice of that designation, together with the note as to who, if anyone, must be contacted in order to post on the board. That individual may date stamp the material, but will not deny a request to post based upon the content of the message.

(b) Outdoors:

(i) On bulletin boards designated for general use;

(ii) At the kiosks at the Pullman campus designated for general use; and

(iii) Free-standing displays may be placed on free speech areas of each campus, if the user has received the written approval of the chief administrator designated at that campus prior to posting, who may deny or defer a request to a later date based upon competing uses of the requested space, but will not deny a request based upon content. Such chief administrator is identified on the campus use committee web site. The web site is found by accessing the WSU web site at: <http://www.wsu.edu/>.

(c) The overhead walkways that cross streets at the Pullman campus may be used by the university and students, including student government organizations and registered student organizations to display banners that promote a university event or an approved event sponsored by student government or a registered student organization, if the user has received the written approval of the scheduling office prior to posting, and if the banners are constructed of durable, weather-proof material, have air vents and metal grommets, and are attached to the structure with approved cable ties. Tape, rope, and/or wire are not permitted.

(2) Signs, posters, placards, banners, handbills, flyers, announcements, and similar materials may not:

(a) Be placed on, taped, glued, or otherwise affixed to walls, windows, furniture, or any interior surfaces;

(b) Be placed on, taped, glued, or otherwise affixed to trees;

(c) Be placed on, taped, glued, or otherwise affixed to a building exterior;

(d) Be placed on, taped, glued, or otherwise affixed to walkways, floors, or sidewalks; or

(e) Be placed on, taped, glued, or otherwise affixed to vehicles while located on university owned or controlled grounds, with the exception of official university notices distributed with the approval of the department of parking services.

(3) Neither paint, chalk, nor other marker may be used on any walkway, sidewalk, floor, or on any portion of a building.

(4) The individual or group posting the sign, poster, placard, banner, handbill, flyer, announcement, or similar material must:

(a) Ensure that any document posted on a general use bulletin board or kiosk is no larger than eleven inches by seventeen inches;

(b) Not post material so that it covers other postings;

(c) Remove the material and related fasteners:

(i) Within two weeks of posting; or

(ii) Within twenty-four hours of the end of the event promoted on the material, whichever is shorter, provided that continuing service signs may be redated/stamped and reposted; and

(d) Obtain a date stamp, where required by the university department/unit responsible for a bulletin board, or clearly write the date of posting on the material.

(5) Removal of materials by university. The university retains the right to remove the following:

(a) Material that does not contain the posting date.

(b) Material that is not removed within two weeks of posting or within twenty-four hours of the end of the event, whichever is shorter.

(c) Material on bulletin boards or kiosks that exceeds the size limitations.

(d) Material that is posted so that it covers other documents.

(6) Before exhibits or displays are placed on the Glenn Terrell Mall, notification must be made to the disability resource center.

(7) Literature, handbills, flyers, pamphlets, and notices.

(a) Literature, handbills, flyers, pamphlets, notices, and similar materials may be distributed to individuals in any of the university's limited public forum areas consistent with the orderly conduct of university affairs, the maintenance of university property, and the free flow of vehicular and pedestrian traffic.

(b) Efforts must be made to avoid litter when distributing these materials.

(c) Materials may not be placed on or affixed to vehicles located on university owned or controlled grounds.

(d) Individuals or groups distributing are responsible for leaving the area clean, including picking up all discarded materials and placing them in the trash.

(e) Distribution by means of accosting, confronting, detaining, or waylaying individuals or by hawking is prohibited. Distribution by means of offering materials to passers-by who indicate a willingness to accept them is allowed.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 504-34-010	Purpose and delegation.
WAC 504-34-020	Definitions.
WAC 504-34-030	Limitations.
WAC 504-34-040	Users.
WAC 504-34-050	Private or commercial enterprise.
WAC 504-34-070	Outdoor dances and concerts.
WAC 504-34-080	Parades.
WAC 504-34-090	Carnivals and fairs.
WAC 504-34-100	Other requests.
WAC 504-34-110	Building hours.
WAC 504-34-120	Administrative control.

Chapter 504-35 WAC

FACILITY USE RULES FOR OTHER THAN FIRST AMENDMENT/FREE SPEECH ACTIVITIES

NEW SECTION

WAC 504-35-005 Title. This chapter is known as Washington State University facility use rules for other than first amendment/free speech activities.

NEW SECTION

WAC 504-35-010 Use of university facilities—General policy and purpose. Washington State University is an educational institution provided and maintained by the people of the state of Washington in order to carry out its broad missions of teaching, research, and public service. A state agency is under no obligation to make its public facilities available to the community for private purposes, and the university generally reserves its facilities, buildings, and grounds for its mission-related activities, including: Instruction, research, public assembly, student activities, and recreational activities related to education. However, the university makes facilities available for a variety of uses which are of benefit to the general public under the conditions set forth in these regulations if such general uses substantially relate to, and do not interfere with, university missions.

The purpose of these regulations is to establish procedures and reasonable controls for the use of university facilities by individuals and entities other than the university itself, including university employees, students, and registered stu-

dent organizations, as well as individuals and groups that are not related to or affiliated with the university.

In reviewing conflicting requests to use university facilities, primary consideration is given to activities specifically related to the university's mission. Additionally, no use will be allowed that may interfere with, or operate to the detriment of, the university's own teaching or public service programs. Additionally, reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and to ensure the proper maintenance of the facilities.

NEW SECTION

WAC 504-35-015 First amendment/free speech activities not covered. Use of university facilities for first amendment/free speech activities is governed by the rules set forth in chapter 504-33 WAC. This chapter does not apply to those individuals or groups using university facilities for first amendment activities.

NEW SECTION

WAC 504-35-020 Definitions and powers. (1) "Affiliated entities" or "university affiliates" means those entities that have formal relationships with the university and also encompass those entities' officers, agents, and employees. Affiliated entities include, but are not limited to, the university research foundation, the university foundation, the 4-H foundation, the office of the attorney general, and the United States Department of Agriculture—Agricultural Research Service. A list of affiliated entities is available on the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>.

(2) "Approving authority" means a university employee who has authority, consistent with these regulations and with the procedures established by the campus use committee, to review, approve, or deny individual requests for use of facilities.

(a) The university maintains a list of the approving authorities for those facilities that are most frequently used on a short-term basis by individuals and groups. That list is available from the office of business and finance at the Pullman campus, 442 French Administration Building, or by going on-line to the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>.

(b) The approving authority for all long-term uses of facilities is the vice-president for business and finance, the university president, or designee.

(3) A "ballot proposition" means any measure, initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or of any municipal corporation, political subdivision, or other voting constituency from the time that proposition has been filed with the appropriate election officer of the constituency.

(4) The "campus use committee" is the group that is charged with establishing procedures for review of requests to use university facilities at the Pullman campus; to establish, within the framework of these regulations, procedures governing use of facilities throughout the university system;

to review rental schedules where appropriate, and to review individual requests for use where such requests are not reviewed by another university unit or department under these rules. Review of requests to use facilities at the Vancouver, Spokane, and Tri-Cities campuses will be reviewed by the campus use committees for those campuses.

(5) "Campus use committee—Vancouver," "campus use committee—Tri-Cities," and "campus use committee—Spokane" mean the groups responsible to review individual requests for use of university facilities operated under the oversight of the Vancouver, Tri-Cities and Spokane campuses where such requests are not reviewed by another university unit or department under these rules.

(6) A "candidate forum" means a forum where all registered candidates for a potential elected seat are invited to speak regarding their candidacy and position on issues.

(7) "First amendment activities" include, but are not necessarily limited to, informational picketing, petition circulation, the distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments, and/or other types of constitutionally protected assemblies to share information, perspectives, or viewpoints.

(8) An "issue forum" means a forum where supporters and opponents of a ballot proposition are invited to speak on their positions regarding the ballot proposition.

(9) "Limited public forum areas" means those areas of each campus that the university has chosen to be open as places for expressive activities protected by the first amendment ("first amendment activities"), subject to reasonable time, place, or manner restrictions. The use of limited public forum areas for first amendment activities is governed by chapter 504-33 WAC. The provisions of this chapter govern the use of limited public forum areas for nonfirst amendment activities, such as student sponsored concerts or dances. Limited public forum areas are identified in WAC 504-33-015.

(10) "Long-term use" means the use of a university facility for a period of longer than five consecutive business days in any thirty calendar-day period or the use of a university facility for a period that will exceed ten days in any thirty calendar-day period.

(11) A "measure" means any question or proposition submitted to voters.

(12) "Nonuniversity group," for the purposes of this policy, means a collection of individuals that is neither a university affiliate, a registered student organization, nor a recognized employee group. The term also includes the individual members of these groups when acting on behalf of the group, and individuals who are not currently enrolled students, current university employees, or employees of a university affiliate.

(13) "Registered student organization" means a student group or association that has officially signed up with the university pursuant to WAC 504-28-010.

(14) "Short-term use" means a use of a university facility on a daily or hourly basis, not to exceed five consecutive calendar days, or ten calendar days in any thirty calendar-day period. Approving authorities may enter agreements autho-

rizing sporadic use of facilities under their control for periods of up to one year, if the approving authority utilizes the template approved by the office of business and finance for such agreements and if the authorized use will not exceed ten days in any thirty calendar-day period.

(15) "University group," for purposes of this policy, means a registered student organization or a recognized employee group (an employee group created to further professional development of its members or the mission of the university) of the university, and also encompasses the individual members of these groups when acting on behalf of the group. The term also includes individuals who are currently enrolled students or current employees.

(16) "University facilities" means all buildings and grounds owned or controlled by the university and the streets, sidewalks, malls, parking lots, and roadways within the boundaries of property owned or controlled by the university.

(17) "Use of facilities" includes the holding of any event or forum, the posting of signs, all forms of advertising, commercial solicitation or the conduct of other commercial activities, the distribution of pamphlets or similar written materials, and the charitable solicitation or the conduct of other charitable activities on or using university facilities.

NEW SECTION

WAC 504-35-022 Requests for use of facilities for other than first amendment activities. (1) Requests for short-term use of university facilities must be directed to the approving authority who has authority to consummate rental agreements consistent with the rental rates established by the university, these facility regulations, and any guidelines developed by the campus use committee, including the requirement that the approving authority use university approved facilities use templates. A list of the individuals having authority to approve requests for short-term uses of identified university facilities is available in the university office of business and finance at the Pullman campus or by going on-line to the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>.

(2) Requests for long-term use of university facilities must be directed to the vice-president for business and finance, the university president, or designee.

(3) If a requestor is uncertain where to direct a request to use a particular facility, or if the approving authority for a particular facility is not on the university list, he or she should address his or her request to the campus use committee or to the vice-president for business and finance or designee.

NEW SECTION

WAC 504-35-024 Scheduling and reservation practices for other than first amendment activities—Duties of requestor. (1) The primary purpose of university facilities is to serve the university's instructional, research, and public service activities. However, facilities when not required for scheduled university use, may be available for rental by the public in accordance with current fee schedules and other relevant terms and conditions for such use.

(2) No university facilities may be used by individuals or groups unless the facilities, including buildings, equipment, and land, have been reserved.

(3) Requests to use university facilities are made to the approving authority, as defined in WAC 504-35-020(2) and in accordance with WAC 504-35-022.

(4) The approving authority may deny the request to use university facilities where he or she determines that such use would violate any of the limitations set forth in WAC 504-35-030 or where the requestor is unwilling to comply with university requirements for the use of facilities, as authorized by these rules.

(5) The university may require an individual or organization to make an advance deposit, post a bond and/or obtain insurance to protect the university against cost or other liability as a condition to allowing use of any university facility.

(6) When the university grants permission to an individual or organization to use its facilities it is with the understanding and on the condition that the individual or organization assumes full responsibility for any loss or damage resulting from such use and agrees to hold harmless and indemnify the university against any loss or damage claim arising out of such use.

(7) The university and/or government authorities may specify fire, safety, sanitation, and special regulations for the event. It is the responsibility of the user to obey those regulations, as well as to comply with other applicable university policies, procedures, rules, regulations, and state, local, and federal laws.

(8) When the university grants permission to an individual or organization to use its facilities it is with the understanding and on the condition that the individual or organization is responsible to clean the facility and leave it in its original condition at the conclusion of its use or event. The facility may be subject to inspection by a representative of the university after the event. Reasonable charges may be assessed against the sponsoring organization for the costs of extraordinary cleanup or for the repair of damaged property.

NEW SECTION

WAC 504-35-026 Facility rental/use fees. (1) The university assesses fees based upon the actual cost, direct and indirect, of using a university facility. Fees for the short-term use of most facilities are set forth on a schedule available in the office of business and finance at the Pullman campus or by going on-line to the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>. The university reserves the right to make changes to fees without prior written notice, except that such fee changes do not apply to facility use agreements already approved by the university.

(2) In the event that the fee for the use of a particular facility has not been placed on the schedule, and if the university determines to allow the use of the facility, the university will assess a fee based upon the full cost, direct and indirect, of using the facility.

(3) Fees for the long-term use of facilities are individually negotiated between the requestor and the office of busi-

ness and finance, with the fee charged reflecting the full costs of the use, as offset by any resulting university benefit.

(4) Student government organizations and registered student organizations may be allowed to use space in many university facilities at no charge or at a reduced rate. The fees charged to student government and registered student organizations for facilities are available in the university office of business and finance at the Pullman campus or by going on-line to the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>.

NEW SECTION

WAC 504-35-030 Limitations on use. The following limitations apply to all uses of any university facilities:

(1) University facilities may not be used in ways which obstruct vehicular, bicycle, pedestrian, or other traffic or otherwise interfere with ingress or egress to the university, any university building or facility, or that obstruct or disrupt educational activities or other lawful activities on university grounds, university controlled facilities, or at university sponsored events.

(2) University facilities may not be used in ways that interfere with educational, research, or public service activities inside or outside any university building or otherwise prevent the university from fulfilling its missions and achieving its primary purposes.

(3) University facilities may not be used for the purpose of campaigning regarding a ballot proposition or by, for, or against candidates who have filed for public office, except that:

(a) University departments, student government organizations, or registered student organizations may sponsor candidate forums as well as issue forums regarding ballot propositions;

(b) Candidates for office and proponents or opponents of ballot propositions may rent university facilities on a short-term basis for campaign purposes to the same extent and on the same basis as may other individuals or groups;

(c) Candidates for office and proponents or opponents of ballot propositions may use the limited public forum areas using the procedures of chapter 504-33 WAC to the same extent and on the same basis as may other individuals or groups; and

(d) A registered student organization may invite a candidate or another political speaker to one of the meetings of its membership on university property, if it has complied with the scheduling procedures of WAC 504-35-024.

(4) University facilities may not be used in ways that create safety hazards or pose unreasonable safety risks to students, employees, or invitees.

(5) University facilities may not be used for commercial purposes, including: Advertising, commercial solicitation, sales, or other activities to promote a product, except as allowed under WAC 504-35-050.

(6) University facilities may not be used in furtherance of or in connection with illegal activity.

(7) University facilities may not be used in such manner as to create a hazard or result in damage to university facilities.

(8) University facilities may not be used where such use would create undue stress on university resources (e.g., a request for a major event may be denied if another major event is already scheduled for the same time period, because of demands for parking, security coverage, etc.); except that the use of limited public forum areas for a first amendment activity may not be halted simply because the event may require additional university security or police costs.

(9) Advance permission by the approving authority is required to use audio amplifying equipment. Use of audio amplifying equipment is permitted only in locations and at times that will not interfere with the normal conduct of university affairs.

(10) Alcoholic beverages may be served only as allowed under university policies. It is the responsibility of the event sponsor to obtain all necessary licenses from the Washington state liquor control board and adhere to their regulations, as well as all local ordinances, university rules, and regulations.

(11) No person may erect a tent or other shelter on university facilities or remain overnight on university facilities, including in a vehicle, trailer, tent, or other shelter, with the following exceptions:

(a) The use and occupancy of university housing in accordance with chapter 504-24 WAC;

(b) The use of facilities by a university employee or agent who remains overnight to fulfill the responsibilities of his or her position;

(c) The use of facilities by a university student who remains overnight to fulfill the responsibilities of his or her course of study;

(d) The use of facilities where overnight stays are specifically permitted in identified locations for attendees at special events designated by the university, such as staying in the RV lots during home football games, commencement, and special weekends.

(12) Signs and posters and visual displays may be placed only at those locations authorized under, and in accordance with the restrictions of WAC 504-34-140.

(13) Handbills, leaflets, pamphlets, flyers, and similar materials may be distributed only in accordance with WAC 504-34-140.

(14) Animals are not allowed in or on university facilities, except in accordance with WAC 504-36-020.

(15) Smoking is not allowed in or on university facilities, except in accordance with chapter 70.160 RCW.

(16) Mopeds, Segways, skateboards, roller skates, roller blades, bicycles, and similar personal transportation devices may be used on campus only as allowed by WAC 504-14-250, 504-14-930, 504-15-250, 504-15-930, 504-19-250, and 504-19-930.

NEW SECTION

WAC 504-35-050 Private or commercial enterprise or charitable use. (1) University facilities may not be used for private or commercial gain, including: Commercial advertising; solicitation and merchandising of any food,

goods, wares, service, or merchandise of any nature whatsoever; or any other form of sales or promotional activity; except that commercial activity is allowable:

(a) If the campus use committee has determined that the commercial activity or use will serve an educational or public service purpose related to the university's mission;

(b) By special permission granted by the university president, or designee, if an agreement, lease, or other formal arrangement is entered into between the university and the person, corporation, or other entity desiring to engage in commercial activity;

(c) To the extent it represents the regular advertising, promotional, or sponsorship activities carried on, by, or in any university media, *The Daily Evergreen*, or at NCAA athletic events;

(d) In designated areas of each residence hall when related to the university's mission and approved by the university president, the vice-president for student affairs, or such other person as may be designated by the university president; and

(e) If the university purchasing department has authorized vendor representatives to solicit university departments, colleges, or business units, and where those representatives have appropriate university identification.

(2) University facilities may not be used by faculty or staff in connection with compensated outside service, with the following exceptions:

(a) Faculty or staff may use university facilities that are generally available to the public on the same basis, including payment of the same fees, as may other private citizens; and

(b) Faculty may make private use of facilities to encourage basic and applied research in accordance with the provisions of the university policy adopted pursuant to RCW 42.52.220.

(3) University facilities may not be used to benefit a charitable organization, with the following exceptions:

(a) Charities that are licensed in the state of Washington may use university facilities that are generally available to the public on the same basis, including payment of the same fees, as may private citizens;

(b) Charities that are licensed in the state of Washington may use facilities without charge by special permission granted by the university president, or designee, or the vice-president for business and finance where the university has determined that the charitable activity or use will serve an educational or public service purpose related to the university's mission and an agreement, lease, or other formal arrangement is entered into between the university and the person, corporation, or other entity desiring to engage in a charitable event; and

(c) Student government organizations, registered student organizations, and university units that have followed university policies and procedures to conduct fund-raising activities and have adhered to all scheduling requirements and other university policies.

NEW SECTION

WAC 504-35-070 Outdoor dances, concerts, carnivals and fairs. Street dances, outdoor concerts, carnivals, or

fairs may be held at approved locations when sponsored by student governments or registered student organizations on days and at times approved by the office delegated oversight responsibility for student government organizations and registered student organizations on each campus, following consultation with appropriate university departments.

NEW SECTION

WAC 504-35-080 Parades. Permits for parades on university streets and roads on the Pullman campus may be obtained upon approval of the university chief of police. Permits for parades on university streets and roads at the Vancouver, Spokane, and Tri-Cities campuses may be obtained upon the approval of the person identified by the university, as set forth on the list of approving authorities available from the office of business and finance at the Pullman campus or by going on-line to the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>.

Parades must be scheduled so as not to interfere with rush-hour traffic or with university events or activities.

NEW SECTION

WAC 504-35-150 Administrative control—Trespass. Individuals who violate these regulations will be advised of the specific nature of violation. If they persist in the violation, they may be directed by a university official, university public safety or security officer, or any other public safety officer acting under the authority of a mutual aid agreement, to leave the university property. Such a direction withdraws the license or privilege to enter onto or remain upon an identified portion of, or all, university facilities by the individual told to leave. Persons who fail to heed the direction to leave university facilities, or who enter onto such facilities in violation of such direction, may be arrested under the provisions of chapter 9A.52 RCW. If the no trespass order is given for only one portion of campus for only a single day, the decision is not subject to appeal.

Individuals directed to leave university facilities for more than a single day may appeal that decision by submitting to the vice-president for business and finance, or such other person as the university president may designate, by certified mail, return receipt requested, a letter stating the reasons the person should not be barred from university facilities. The vice-president for business and finance, or the person who has been designated by the university president, shall respond in writing within fifteen calendar days with a final decision of the university. Persons will continue to be barred from university property while their appeal is pending.

University students, faculty, and staff may only be ejected pursuant to this protocol where the duration of the ejection is for no more than a single day or where the ejection applies to a portion of university property that the student or employee does not need to access to perform his or her studies or work (e.g., a student may be ejected, using this protocol, from Martin Stadium during a football game or from Beasley Coliseum during an event).

Students, faculty, and staff who do not comply with these regulations will be reported to the appropriate univer-

sity office or agency for action in accordance with established university policies. Such action may include a decision to permanently bar them from entering onto, or remaining upon, all or a portion of the university facilities. The authority to bar students from all or a portion of campus under this section is separate from, and in addition to, the authority of student conduct officers or conduct boards to bar students as a disciplinary sanction.

AMENDATORY SECTION (Amending Order 77-2, filed 8/3/77)

WAC 504-36-020 Control of ~~((pets))~~ animals. (1) ~~((Pets))~~ Animals are not permitted in university buildings, except in facilities that are the site of university-authorized events, such as stock shows, horse shows, parades, or demonstrations at sporting events, where the animals are participants in said events, or as allowed by university housing policies.

(2) ~~((Pets))~~ Livestock and horses are not permitted on university property ~~((unless under immediate control of their owner)),~~ except as allowed in subsection (3)(e) of this section. Other animals are not permitted on university property unless under immediate control of their keeper, except as otherwise allowed under this rule. "Keeper" includes an owner, handler, trainer, or any person responsible for the control of an animal. "Under control" means the restraint of an animal by means of a leash or other device that physically restrains the animal to the keeper's immediate proximity. An animal which is otherwise securely confined while in or upon any motor vehicle, including a trailer, is deemed to be under control.

(3) ~~((Pullman Ordinance B-292 is in effect on the Washington State University campus. Thus, pets that are picked up will be impounded at the city dog pound.))~~ The requirement that animals be under immediate control of their keeper does not apply to:

(a) A dog being exercised in any area designated by the university as leash optional;

(b) A dog undergoing training at a certified dog obedience class on the university campus and authorized by the dean of the college of veterinary medicine, the vice-president for business and finance, the president, or the president's designee;

(c) A dog while being exhibited in an organized dog show on university property;

(d) A dog trained to aid law enforcement officers while being used for law enforcement purposes or during demonstrations to illustrate the dog's capabilities; and

(e) An animal participating in a university-authorized event, such as a stock show, horse show, parade, extension or outreach event, or demonstrations at a sporting, teaching, or agricultural event.

(4) Any stray dog or other animal that is running loose on university property is subject to impound by local authorities in accordance with the municipal or county ordinances that apply to each campus.

(5) The keeper of any animal must remove for disposal any fecal matter deposited by the animal on university premises before the keeper leaves the area where the matter was

deposited. This requirement does not apply to an individual who, by reason of disability, is unable to comply, or to individuals bringing animals to university-authorized events where arrangements have been made for the removal of fecal matter.

(6) This section does not apply to animals owned by the university or under its care, custody, and/or control.

(7) Subsection (1) of this section does not apply to trained guide dogs or service animals that are being used by persons with disability.

(8) The vice-president for business and finance, the president, the chancellor of a branch campus, or such other person as the president may designate, will waive subsection (1) of this section for guide dogs in training or service animals in training, provided that such animals are present on campus with trainers or handlers who have a demonstrated history of training such animals.

WSR 08-19-108

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed September 17, 2008, 8:46 a.m.]

Continuance of WSR 08-16-118.

Preproposal statement of inquiry was filed as WSR 08-12-078.

Title of Rule and Other Identifying Information: WAC 16-390-230 What is the fee for an apple pest certification?, the department is proposing to remove a sunset provision in the rule establishing the current apple pest certification fee, so that the fee would remain at its current level. During the 2008 legislative session, the Washington state legislature authorized the Washington state department of agriculture (WSDA) to increase the apple pest certification fee (see chapter 329, Laws of 2008).

Hearing Location(s): Washington State Department of Agriculture, 21 North 1st Avenue, Conference Room 238, Yakima, WA 98902, on October 3, 2008, at 11:00 a.m.

Date of Intended Adoption: October 10, 2008.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail hgonzales@agr.wa.gov, fax (360) 902-2094, by October 3, 2008.

Assistance for Persons with Disabilities: Contact Henri Gonzales by September 26, 2008, TTY (800) 833-6388.

Statutory Authority for Adoption: Chapters 15.17, 17.24, and 34.05 RCW.

Statute Being Implemented: Chapters 15.17 and 17.24 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Brad White, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-2071.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that

impose a more than minor cost on businesses in an industry. The department has analyzed the economic effects of the proposed revisions and has concluded that there are negligible additional costs on the regulated industry and, therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

September 17, 2008

Mary A. Martin Toohey

Assistant Director

WSR 08-19-113

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed September 17, 2008, 10:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-13-063.

Title of Rule and Other Identifying Information: WAC 458-57-105 Nature of estate tax, definitions and 458-57-115 Valuation of property, property subject to estate tax, and how to calculate the tax.

Hearing Location(s): Capital Plaza Building, 4th Floor L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504 (copies of draft rules are available for viewing and printing on our web site at <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx>), on October 23, 2008, at 1:30 p.m.

Date of Intended Adoption: November 13, 2008.

Submit Written Comments to: Mark Bohe, P.O. Box 47453, Olympia, WA 98504-7453, e-mail markbohe@dor.wa.gov, fax (360) 586-0127, by October 23, 2008.

Assistance for Persons with Disabilities: Contact Martha Thomas at (360) 725-7497 no later than ten days before the hearing date. Deaf and hard of hearing individuals may call 1-800-451-7985 (TTY users).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing an amendment to these rules to clarify when an amount included in the federal taxable estate pursuant to IRC Sec. 2044 (inclusions of amounts for which a federal QTIP election was previously made) is subtracted out when calculating the Washington taxable estate. The proposed rules clarify that the Washington taxable estate is only reduced by the amount included in the federal taxable estate pursuant to IRC Sec. 2044 when it is received from a predeceased spouse that died on or after May 17, 2005.

Reasons Supporting Proposal: The amendments are necessary to provide current and accurate tax-reporting guidance, particularly with respect to clarifying when the Washington taxable estate is reduced by the amount included in the federal taxable estate pursuant to IRC Sec. 2044.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: Chapter 83.100 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Mark E. Bohe, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6133; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the new rules and proposed amendments do not impose any requirements or burdens upon small businesses that are not already required by statute.

A cost-benefit analysis is not required under RCW 34.05.328. These are not significant legislative rules as defined in RCW 34.05.328.

September 17, 2008

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-07-051, filed 3/9/06, effective 4/9/06)

WAC 458-57-105 Nature of estate tax, definitions. (1)

Introduction. This rule applies to deaths occurring on or after May 17, 2005, and describes the nature of Washington state's estate tax as it is imposed by chapter 83.100 RCW (Estate and Transfer Tax Act). It also defines terms that will be used throughout chapter 458-57 WAC (Washington Estate and Transfer Tax Reform Act rules). The estate tax rule on the nature of estate tax and definitions for deaths occurring on or before May 16, 2005, can be found in WAC 458-57-005.

(2) **Nature of Washington's estate tax.** The estate tax is neither a property tax nor an inheritance tax. It is a tax imposed on the transfer of the entire taxable estate and not upon any particular legacy, devise, or distributive share.

(a) **Relationship of Washington's estate tax to the federal estate tax.** The department administers the estate tax under the legislative enactment of chapter 83.100 RCW, which references the Internal Revenue Code (IRC) as it existed January 1, 2005. Federal estate tax law changes enacted after January 1, 2005, do not apply to the reporting requirements of Washington's estate tax. The department will follow federal Treasury Regulations section 20 (Estate tax regulations), in existence on January 1, 2005, to the extent they do not conflict with the provisions of chapter 83.100 RCW or 458-57 WAC. For deaths occurring January 1, 2009, and after, Washington has different estate tax reporting and filing requirements than the federal government. There will be estates that must file an estate tax return with the state of Washington, even though they are not required to file with the federal government. The Washington state estate and transfer tax return and the instructions for completing the return can be found on the department's web site at <http://www.dor.wa.gov/> under the heading titled forms. The return and instructions can also be requested by calling the department's estate tax section at 360-570-3265, option 2.

(b) **Lifetime transfers.** Washington estate tax taxes lifetime transfers only to the extent included in the federal gross estate. The state of Washington does not have a gift tax.

(3) **Definitions.** The following terms and definitions are applicable throughout chapter 458-57 WAC:

(a) "Absentee distributee" means any person who is the beneficiary of a will or trust who has not been located;

(b) "Decedent" means a deceased individual;

(c) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him by the director;

(d) "Escheat" of an estate means that whenever any person dies, whether a resident of this state or not, leaving property in an estate subject to the jurisdiction of this state and without being survived by any person entitled to that same property under the laws of this state, such estate property shall be designated escheat property and shall be subject to the provisions of RCW 11.08.140 through 11.08.300;

(e) "Federal return" means any tax return required by chapter 11 (Estate tax) of the Internal Revenue Code;

(f) "Federal tax" means tax under chapter 11 (Estate tax) of the Internal Revenue Code;

(g) "Federal taxable estate" means the taxable estate as determined under chapter 11 of the Internal Revenue Code without regard to:

(i) The termination of the federal estate tax under section 2210 of the IRC or any other provision of law; and

(ii) The deduction for state estate, inheritance, legacy, or succession taxes allowable under section 2058 of the IRC.

(h) "Gross estate" means "gross estate" as defined and used in section 2031 of the Internal Revenue Code;

(i) "Internal Revenue Code" or "IRC" means, for purposes of this chapter, the United States Internal Revenue Code of 1986, as amended or renumbered on January 1, 2005;

(j) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;

(k) "Person required to file the federal return" means any person required to file a return required by chapter 11 of the Internal Revenue Code, such as the personal representative (executor) of an estate;

(l) "Property," when used in reference to an estate tax transfer, means property included in the gross estate;

(m) "Resident" means a decedent who was domiciled in Washington at time of death;

(n) "State return" means the Washington estate tax return required by RCW 83.100.050;

(o) "Taxpayer" means a person upon whom tax is imposed under this chapter, including an estate or a person liable for tax under RCW 83.100.120;

(p) "Transfer" means "transfer" as used in section 2001 of the Internal Revenue Code. However, "transfer" does not include a qualified heir disposing of an interest in property qualifying for a deduction under RCW 83.100.046;

(q) "Washington taxable estate" means the "federal taxable estate":

(i) Less one million five hundred thousand dollars for decedents dying before January 1, 2006, or two million dollars for decedents dying on or after January 1, 2006;

(ii) Less the amount of any deduction allowed under RCW 83.100.046 as a farm deduction;

(iii) Less the amount of the Washington qualified terminable interest property (QTIP) election made under RCW 83.100.047;

(iv) Plus any amount deducted from the federal estate pursuant to IRC § 2056 (b)(7) (the federal QTIP election);

(v) Plus the value of any trust (or portion of a trust) of which the decedent was income beneficiary and for which a Washington QTIP election was previously made pursuant to RCW 83.100.047; and

(vi) Less any amount included in the federal taxable estate pursuant to IRC § 2044 (inclusion of amounts for which a federal QTIP election was previously made) from a predeceased spouse that died on or after May 17, 2005.

AMENDATORY SECTION (Amending WSR 06-07-051, filed 3/9/06, effective 4/9/06)

WAC 458-57-115 Valuation of property, property subject to estate tax, and how to calculate the tax. (1) Introduction. This rule applies to deaths occurring on or after May 17, 2005, and is intended to help taxpayers prepare their return and pay the correct amount of Washington state estate tax. It explains the necessary steps for determining the tax and provides examples of how the tax is calculated. The estate tax rule on valuation of property etc., for deaths occurring on or before May 16, 2005, can be found in WAC 458-57-015.

(2) Determining the property subject to Washington's estate tax.

(a) **General valuation information.** The value of every item of property in a decedent's gross estate is its date of death fair market value. However, the personal representative may elect to use the alternate valuation method under section

2032 of the Internal Revenue Code (IRC), and in that case the value is the fair market value at that date, including the adjustments prescribed in that section of the IRC. The valuation of certain farm property and closely held business property, properly made for federal estate tax purposes pursuant to an election authorized by section 2032A of the 2005 IRC, is binding on the estate for state estate tax purposes.

(b) **How is the gross estate determined?** The first step in determining the value of a decedent's Washington taxable estate is to determine the total value of the gross estate. The value of the gross estate includes the value of all the decedent's tangible and intangible property at the time of death. In addition, the gross estate may include property in which the decedent did not have an interest at the time of death. A decedent's gross estate for (~~federal~~) estate tax purposes may therefore be different from the same decedent's estate for local probate purposes. Sections 2031 through 2046 of the IRC provide a detailed explanation of how to determine the value of the gross estate.

(c) **Deductions from the gross estate.** The value of the (~~federal~~) taxable estate is determined by subtracting the authorized exemption and deductions from the value of the gross estate. Under various conditions and limitations, deductions are allowable for expenses, indebtedness, taxes, losses, charitable transfers, and transfers to a surviving spouse. While sections 2051 through 2056A of the IRC provide a detailed explanation of how to determine the value of the taxable estate the following areas are of special note:

(i) **Funeral expenses.**

(A) Washington is a community property state and under *Estate of Julius C. Lang v. Commissioner*, 97 Fed. 2d 867 (9th Cir. 1938) affirming the reasoning of *Wittwer v. Pember-ton*, 188 Wash. 72, 76, 61 P.2d 993 (1936) funeral expenses reported for a married decedent must be halved. (~~Administrative~~) Administration expenses are not a community debt and are reported at 100%.

(B) **Example.** John, a married man, died in 2005 with an estate valued at \$2.5 million. On Schedule J of the federal estate tax return listed following as expenses:

SCHEDULE J - Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims			
Item Number	Description	Expense Amount	Total Amount
1	A. Funeral expenses: Burial and services	\$4,000	
	(1/2 community debt)	(\$2,000)	
	Total funeral expenses.		
	B. Administration expenses:		
	1. Executors' commissions - amount estimated/agreed upon paid. (Strike out the words that do not apply).		\$10,000
	2. Attorney fees - amount estimated/agreed upon/paid. (Strike out the words that do not apply).		\$5,000

The funeral expenses, as a community debt, were properly reported at 50% and the other administration expenses were properly reported at 100%.

(ii) **Mortgages and liens on real property.** Real property listed on Schedule A should be reported at its fair market value without deduction of mortgages or liens on the prop-

erty. Mortgages and liens are reported and deducted using Schedule K.

(iii) **Washington qualified terminable interest property (QTIP) election.**

(A) A personal representative may choose to make a larger or smaller percentage or fractional QTIP election on

the Washington return than taken on the federal return in order to reduce Washington estate liability while making full use of the federal unified credit.

(B) Section 2056 (b)(7) of the IRC states that a QTIP election is irrevocable once made. Section 2044 states that the value of any property for which a deduction was allowed under section 2056 (b)(7) must be included in the gross estate of the recipient. Similarly, a QTIP election made on the Washington return is irrevocable, and a surviving spouse who ~~((receives))~~ is the lifetime beneficiary of property for which a Washington QTIP election was made must include the value of the remaining property in his or her gross estate for Washington estate tax purposes. If the value of property for which a federal QTIP election was made is different, this value is not includible in the surviving spouse's gross estate for Washington estate tax purposes; instead, the value of property for which a Washington QTIP election was made is includible.

(C) The Washington QTIP election must adequately identify the assets, by schedule and item number, included as part of the election, either on the return or, if those assets have not been determined when the estate tax return is filed, on a statement to that effect, prepared when the assets are definitively identified. Identification of the assets is necessary when reviewing the surviving spouse's return, if a return is required to be filed. This statement may be filed with the department at that time or when the surviving spouse's estate tax return is filed.

(D) **Example.** A decedent dies in 2009 with a gross estate of \$5 million. The decedent established a QTIP trust for the benefit of her surviving spouse in an amount to result in no federal estate tax. The federal unified credit is \$3.5 million for the year 2009. In 2009 the Washington statutory deduction is \$2 million. To pay no Washington estate tax the personal representative of the estate has the option of electing a larger percentage or fractional QTIP election resulting in the maximization of the individual federal unified credit and paying no tax for Washington purposes.

The federal estate tax return reflected the QTIP election with a percentage value to pay no federal estate tax. On the Washington return the personal representative elected QTIP treatment on a percentage basis in an amount so no Washington estate tax is due. Upon the surviving spouse's death the assets remaining in the Washington QTIP trust must be included in the surviving spouse's gross estate.

(iv) Washington qualified domestic trust (QDOT) election.

(A) A deduction is allowed for property passing to a surviving spouse who is not a U.S. citizen in a qualified domestic trust (a "QDOT"). An executor may elect to treat a trust as a QDOT on the Washington estate tax return even though no QDOT election is made with respect to the trust on the federal return; and also may forgo making an election on the Washington estate tax return to treat a trust as a QDOT even though a QDOT election is made with respect to the trust on the federal return. An election to treat a trust as a QDOT may not be made with respect to a specific portion of an entire trust that otherwise would qualify for the marital deduction, but if the trust is actually severed pursuant to authority granted in the governing instrument or under local law prior

to the due date for the election, a QDOT election may be made for any one or more of the severed trusts.

(B) A QDOT election may be made on the Washington estate tax return with respect to property passing to the surviving spouse in a QDOT, and also with respect to property passing to the surviving spouse if the requirements of IRC section 2056 (d)(2)(B) are satisfied. Unless specifically stated otherwise herein, all provisions of sections 2056(d) and 2056A of the IRC, and the federal regulations promulgated thereunder, are applicable to a Washington QDOT election. Section 2056A(d) of the IRC states that a QDOT election is irrevocable once made. Similarly, a QDOT election made on the Washington estate tax return is irrevocable. For purposes of this subsection, a QDOT means, with respect to any decedent, a trust described in IRC section 2056A(a), provided, however, that if an election is made to treat a trust as a QDOT on the Washington estate tax return but no QDOT election is made with respect to the trust on the federal return:

(I) The trust must have at least one trustee that is an individual citizen of the United States resident in Washington state, or a corporation formed under the laws of the state of Washington, or a bank as defined in IRC section 581 that is authorized to transact business in, and is transacting business in, the state of Washington (the trustee required under this subsection is referred to herein as the "Washington Trustee");

(II) The Washington Trustee must have the right to withhold from any distribution from the trust (other than a distribution of income) the Washington QDOT tax imposed on such distribution;

(III) The trust must be maintained and administered under the laws of the state of Washington; and

(IV) The trust must meet the additional requirements intended to ensure the collection of the Washington QDOT tax set forth in (c)(iv)(D) of this subsection.

(C) The QDOT election must adequately identify the assets, by schedule and item number, included as part of the election, either on the return, or, if those assets have not been determined when the estate tax return is filed, or a statement to that effect, prepared when the assets are definitively identified. This statement may be filed with the department at that time or when the first taxable event with respect to the trust is reported to the department.

(D) In order to qualify as a QDOT, the following requirements regarding collection of the Washington QDOT tax must be satisfied.

(I) If a QDOT election is made to treat a trust as a QDOT on both the federal and Washington estate tax returns, the Washington QDOT election will be valid so long as the trust satisfies the statutory requirements of Treas. Reg. Section 20.2056A-2(d).

(II) If an election is made to treat a trust as a QDOT only on the Washington estate tax return, the following rules apply:

If the fair market value of the trust assets exceeds \$2 million as of the date of the decedent's death, or, if applicable, the alternate valuation date, the trust must comply with Treas. Reg. Section 20.2056A-2 (d)(1)(i), except that: If the bank trustee alternative is used, the bank must be a bank that is authorized to transact business in, and is transacting business in, the state of Washington, or a bond or an irrevocable letter

of credit meeting the requirements of Treas. Reg. Section 20.2056A-2 (d)(1)(i)(B) or (C) must be furnished to the department.

If the fair market value of the trust assets is \$2 million or less as of the date of the decedent's death, or, if applicable, the alternate valuation date, the trust must comply with Treas. Reg. Section 20.2056A-2 (d)(1)(ii), except that not more than 35 percent of the fair market value of the trust may be comprised of real estate located outside of the state of Washington.

A taxpayer may request approval of an alternate plan or arrangement to assure the collection of the Washington QDOT tax. If such plan or arrangement is approved by the department, such plan or arrangement will be deemed to meet the requirements of this (c)(iv)(D).

(E) The Washington estate tax will be imposed on:

(I) Any distribution before the date of the death of the surviving spouse from a QDOT (except those distributions excepted by IRC section 2056A (b)(3)); and

(II) The value of the property remaining in the QDOT on the date of the death of the surviving spouse (or the spouse's deemed date of death under IRC section 2056A (b)(4)). The tax is computed using Table W. The tax is due on the date specified in IRC section 2056A (b)(5). The tax shall be reported to the department in a form containing the information that would be required to be included on federal Form 706-QDT with respect to the taxable event, and any other information requested by the department, and the computation of the Washington tax shall be made on a supplemental statement. If Form 706-QDT is required to be filed with the Internal Revenue Service with respect to a taxable event, a copy of such form shall be provided to the department. Neither the residence of the surviving spouse or other QDOT beneficiary nor the situs of the QDOT assets are relevant to the application of the Washington tax. In other words, if Washington state estate tax would have been imposed on property passing to a QDOT at the decedent's date of death but for the deduction allowed by this subsection (c)(iv)(E)(II), the Washington tax will apply to the QDOT at the time of a taxable event as set forth in this subsection (c)(iv)(E)(II) regardless of, for example, whether the distribution is made to a beneficiary who is not a resident of Wash-

ington, or whether the surviving spouse was a nonresident of Washington at the date of the surviving spouse's death.

(F) If the surviving spouse of the decedent becomes a citizen of the United States and complies with the requirements of section 2056A (b)(12) of the IRC, then the Washington tax will not apply to: Any distribution before the date of the death of the surviving spouse from a QDOT; or the value of the property remaining in the QDOT on the date of the death of the surviving spouse (or the spouse's deemed date of death under IRC section 2056A (b)(4)).

(d) **Washington taxable estate.** The estate tax is imposed on the "Washington taxable estate." The "Washington taxable estate" means the "federal taxable estate":

(i) Less one million five hundred thousand dollars for decedents dying before January 1, 2006, or two million dollars for decedents dying on or after January 1, 2006;

(ii) Less the amount of any deduction allowed under RCW 83.100.046 as a farm deduction;

(iii) Less the amount of the Washington qualified terminable interest property (QTIP) election made under RCW 83.100.047;

(iv) Plus any amount deducted from the federal estate pursuant to IRC § 2056 (b)(7) (the federal QTIP election);

(v) Plus the value of any trust (or portion of a trust) of which the decedent was income beneficiary and for which a Washington QTIP election was previously made pursuant to RCW 83.100.047; and

(vi) Less any amount included in the federal taxable estate pursuant to IRC § 2044 (inclusion of amounts for which a federal QTIP election was previously made) from a predeceased spouse that died on or after May 17, 2005.

(e) **Federal taxable estate.** The "federal taxable estate" means the taxable estate as determined under chapter 11 of the IRC without regard to:

(i) The termination of the federal estate tax under section 2210 of the IRC or any other provision of law; and

(ii) The deduction for state estate, inheritance, legacy, or succession taxes allowable under section 2058 of the IRC.

(3) Calculation of Washington's estate tax.

(a) The tax is calculated by applying Table W to the Washington taxable estate. See (d) of this subsection for the definition of "Washington taxable estate."

Table W

Washington Taxable Estate is at Least	But Less Than	The Amount of Tax Equals Initial Tax Amount	Plus Tax Rate %	Of Washington Taxable Estate Value Greater Than
\$0	\$1,000,000	\$0	10.00%	\$0
\$1,000,000	\$2,000,000	\$100,000	14.00%	\$1,000,000
\$2,000,000	\$3,000,000	\$240,000	15.00%	\$2,000,000
\$3,000,000	\$4,000,000	\$390,000	16.00%	\$3,000,000
\$4,000,000	\$6,000,000	\$550,000	17.00%	\$4,000,000
\$6,000,000	\$7,000,000	\$890,000	18.00%	\$6,000,000
\$7,000,000	\$9,000,000	\$1,070,000	18.50%	\$7,000,000
\$9,000,000		\$1,440,000	19.00%	\$9,000,000

(b) Examples.

(i) A widow dies on September 25, 2005, leaving a gross estate of \$2.1 million. The estate had \$100,000 in expenses deductible for federal estate tax purposes. Examples of allowable expenses include funeral expenses, indebtedness, property taxes, and charitable transfers. The Washington taxable estate equals \$500,000.

Gross estate	\$2,100,000
Less allowable expenses deduction	- \$100,000
Less \$1,500,000 statutory deduction	<u>- \$1,500,000</u>
Washington taxable estate	\$500,000

Based on Table W, the estate tax equals \$50,000 (\$500,000 x 10% Washington estate tax rate).

(ii) John dies on October 13, 2005, with an estate valued at \$3 million. John left \$1.5 million to his spouse, Jane, using the unlimited marital deduction. There is no Washington estate tax due on John's estate.

Gross estate	\$3,000,000
Less unlimited marital deduction	- \$1,500,000
Less \$1,500,000 statutory deduction	<u>- \$1,500,000</u>
Washington taxable estate	\$0

Although Washington estate tax is not due, the estate is still required to file a Washington estate tax return along with a photocopy of the filed and signed federal return and all supporting documentation.

WSR 08-19-115
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed September 17, 2008, 10:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-13-083.

Title of Rule and Other Identifying Information: 2009 industrial insurance premium rates, chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance.

Hearing Location(s): Spokane Airport Ramada, 8909 West Airport Drive, Spokane, WA 99219, on October 21, at 9 a.m.; at the Kennewick L&I Office, 4310 West 24th Avenue, Kennewick, WA 99338, on October 21, at 2 p.m.; at the Bellingham Quality Inn, 100 East Kellogg Road, Bellingham, WA 98226, on October 22, at 2 p.m.; at the L&I Building, 7273 Linderson Way S.W., Tumwater, WA 98501, on October 22, at 2 p.m.; at the Tukwila L&I Office, 12806 Gateway Drive, Tukwila, WA 98168, on October 24, at 10 a.m.; and at the Red Lion Inn at the Quay, 100 Columbia Street, Vancouver, WA 98660, on October 24, at 10 a.m.

Date of Intended Adoption: November 26, 2008.

Submit Written Comments to: Ronald Moore, P.O. Box 44140, Olympia, WA 98504-4140, e-mail mooa235@lni.wa.gov, fax (360) 902-4748, by October 31, 2008.

Assistance for Persons with Disabilities: Contact office of information and assistance by October 14, 2008, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule proposal will amend the tables of classification base premium rates, items associated with experience modification factor calculations and retrospective rating plan size groupings for the workers' compensation insurance program for calendar year 2009. Classification base rates were amended for updated loss and payroll experience and the proposed decision to increase premium rates an overall average 3.0%. In addition, the experience modification factor limitation rule is being changed regarding the exceptions to the 25% limitation on annual changes to the factor. The maximum claim value, which is the limitation on amounts charged employers for large single claim costs, has been reduced from \$502,800 to the average cost of fatality cases, currently \$217,944.

This proposal amends the following sections: WAC 296-17-855 Experience modification, 296-17-865 Experience modification limitations, 296-17-870 Evaluation of actual losses, 296-17-875 Table I, 296-17-880 Table II, 296-17-885 Table III, 296-17-890 Table IV, 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry, 296-17-89502 Industrial insurance accident fund, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications, 296-17-89504 Horse racing industry industrial insurance, medical aid, and supplemental pension by class, 296-17-90492 Table I (Retro), and 296-17-920 Assessment for supplemental pension fund.

Reasons Supporting Proposal: The department's decision to increase rates an overall 3.0% is intended to keep up with medical cost inflation and increases in the average amount of workers' wages. Washington law provides that rates should be adjusted annually to reflect the hazards of each industry and in accordance with recognized workers' compensation insurance principles.

Statutory Authority for Adoption: RCW 51.16.035 Base rates, 51.32.073 Supplemental pension, 51.08.010 Retrospective rating, and 51.04.020(1) General authority.

Statute Being Implemented: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Bill Moomau/JoAnne Smith, Tumwater, Washington, (360) 902-4774; Implementation: Ronald Moore, Tumwater, Washington, (360) 902-4748; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In this rule making the agency is exempt from preparing a small business economic impact statement when the proposed rules set or adjust fees or

rates pursuant to legislative standards. This exemption is described in RCW 34.05.310 (4)(f).

A cost-benefit analysis is not required under RCW 34.05.328. In this rule making, the agency is exempt from conducting a cost-benefit analysis since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.328 (5)(b)(vi).

September 17, 2008
 Judy Schurke
 Director

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-855 Experience modification. The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the expected losses for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to weigh the extent to which the actual experience is credible, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification factor shall be calculated from the formula:

$$\text{EXPERIENCE MODIFICATION FACTOR} = \frac{(\text{Credible Actual Primary Loss} + \text{Credible Actual Excess Loss}) / \text{Expected Loss}}$$

Where

$$\begin{aligned} \text{Credible Actual Primary Loss} &= \text{Actual Primary Loss} \times \text{Primary Credibility} \\ &+ \text{Expected Primary Loss} \times (100\% - \text{Primary Credibility}) \\ \text{Credible Actual Excess Loss} &= \text{Actual Excess Loss} \times \text{Excess Credibility} \\ &+ \text{Expected Excess Loss} \times (100\% - \text{Excess Credibility}) \end{aligned}$$

The meaning and function of each term in the formula is specified below.

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future experience. These amounts are summed over all claims. For each claim in excess of \$20,112 the actual primary loss shall be determined from the formula:

$$\text{ACTUAL PRIMARY LOSS} = \frac{50,280}{(\text{Total loss} + 30,168)} \times \text{total loss}$$

For each claim, less than \$20,112 the full value of the claim shall be considered a primary loss.

For each claim, the excess actual loss is the remaining portion of the claim costs, which have been shown in actuarial studies to have less credibility in predicting future experience. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss. These amounts are summed over all claims.

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by the lesser of \$((1,640)) 1,790 or the total cost of the claim. Here are some examples for these claims:

Total Loss	Total Loss (after deduction)	Primary Loss	Excess Loss
200	-	-	-
2,000	((360)) 210	((360)) 210	-
20,000	((18,360)) 18,210	((18,360)) 18,210	-
200,000	((198,360)) 198,210	((43,643)) 43,638	((154,717)) 154,572
2,000,000	((502,800)) 217,994	((47,434)) 44,168	((455,366)) 173,826

Note: The deduction, \$((1,640)) 1,790, is twice the average case incurred cost of these types of claims occurring during the three-year period used for experience rating. On average this results in reducing the average actual loss about seventy percent for these types of claims adjusted. This is done to help make the transition between the two different experience rating methods better by helping make the change in experience factor reasonable for small changes to the actual losses. The \$2,000,000 loss is limited by the Maximum Claim Value before the reduction of \$((1,640)) 1,790 is applied.

For each employer, the primary credibility and the excess credibility determines the percentage weight given to the corresponding actual primary losses and the actual excess losses, included in the calculation of the experience modification, based on the volume of expected losses. Primary credibility and excess credibility values are set forth in Table II.

An employer's expected losses shall be determined by summing the expected loss for each of the three years of the experience period, which are calculated by multiplying the reported exposure in each classification during the year by the corresponding classification expected loss rate and rounding the result to the nearest cent. Classification expected loss rates by year are set forth in Table III.

Expected losses in each classification shall be multiplied by the classification "Primary-Ratio" to obtain "expected primary losses" which shall be rounded to the nearest cent. Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses rounded to the nearest cent. Primary-Ratios are also set forth in Table III.

AMENDATORY SECTION (Amending WSR 07-12-045, filed 5/31/07, effective 7/1/07)

WAC 296-17-870 Evaluation of actual losses. Except as provided in the following subsections of this paragraph, actual losses shall include all payments as of the "valuation date" for each claim arising from an accident occurring during the experience period. Losses for claims open as of the valuation date may also include a reserve for future pay-

ments. Actual losses on claims for accidents occurring outside of the experience period shall not be included.

(1) **Valuation date.** ~~The ((valuation date shall be on and include December 31, one year and one day immediately preceding the effective date of premium rates as set forth in WAC 296-17-895. For experience modifications effective January 1, 1990, and thereafter, the))~~ valuation date shall be June 1, seven months immediately preceding the effective date of premium rates.

(2) **Retroactive adjustments - revision of losses between valuation dates.** No claim value shall be revised between valuation dates and no retroactive adjustment of an experience modification shall be made because of disputation concerning the judgment of the claims examiner or because of subsequent developments except as specifically provided in the following cases:

(a) In cases where loss values are included or excluded through mistake other than error of judgment.

(b) In cases where a third party recovery is made, subject to subsection (4)(a) of this section.

(c) In cases where the claim qualifies as a second injury claim under the provisions of RCW 51.16.120.

(d) In cases where a claim, which was previously evaluated as a compensable claim, is closed and is determined to be noncompensable (ineligible for benefits other than medical treatment).

(e) In cases where a claim is closed and is determined to be ineligible for any benefits.

In the above specified cases retroactive adjustment of the experience modification shall be made for each rating in which the claim was included. Retroactive adjustments will not be made for rating periods more than ten years prior to the date on which the claim status was changed.

(3) **Average death value.** Each fatality occurring to a worker included within the mandatory or elective coverage of Title 51 RCW shall be assigned the "average death value." The "average death value" shall be the average incurred cost for all such fatalities occurring during the experience period. The average death value is set forth in WAC 296-17-880 (Table II).

(4) **Third-party recovery - effect on experience modification.**

(a) For claims with injury dates prior to July 1, 1994, a potential claim cost recovery from action against a third party, either by the injured worker or by the department, shall not be considered in the evaluation of actual losses until such time as the third-party action has been completed. If a third-party recovery is made after a claim had previously been used in an experience modification calculation, the experience modification shall be retroactively adjusted. The department shall compute a percentage recovery by dividing the current valuation of the claim into the amount recovered or recoverable as of the recovery date, and shall reduce both primary and excess losses previously used in the experience modification calculation by that percentage.

(b) For claims with injury dates on or after July 1, 1994, if the department determines that there is a reasonable potential of recovery from an action against a third party, both primary and excess values of the claim shall be reduced by fifty percent for purposes of experience modification calculation,

until such time as the third-party action has been completed. This calculation shall not be retroactively adjusted, regardless of the final outcome of the third-party action. After a third-party recovery is made, the actual percentage recovery shall be applied to future experience modification calculations.

(c) For third-party actions completed before July 1, 1996, the claim shall be credited with the department's net share of the recovery, after deducting attorney fees and costs. For third-party actions completed on or after July 1, 1996, the claim shall be credited with the department's gross share of the recovery, before deducting attorney fees and costs.

(d) **Definitions:**

(i) As used in this section, "recovery date" means the date the money is received at the department or the date the order confirming the distribution of the recovery becomes final, whichever comes first.

(ii) As used in this section, "recoverable" means any amount due as of the recovery date and/or any amount available to offset case reserved future benefits.

(5) **Second injury claims.** The primary and excess values of any claim which becomes eligible for second injury relief under the provisions of RCW 51.16.120, as now or hereafter amended, shall be reduced by the percentage of relief granted.

(6) **Occupational disease claims.** When a claim results from an employee's exposure to an occupational disease hazard, the "date of injury," for the purpose of experience rating, will be the date the disability was diagnosed and that gave rise to the filing of a claim for benefits. The cost of any occupational disease claim, paid from the accident fund and medical aid fund and arising from exposure to the disease hazard under two or more employers, shall be prorated to each period of employment involving exposure to the hazard. Each insured employer who had employed the claimant during the experience period, and for at least ten percent of the claimant's exposure to the hazard, shall be charged for his/her share of the claim based upon the prorated costs.

(7) **Maximum claim value.** No claim shall enter an employer's experience record at a value greater than the "maximum claim value." The maximum claim value is set forth in WAC 296-17-880 (Table II).

(8) **Catastrophic losses.** Whenever a single accident results in the deaths or total permanent disability of three or more workers employed by the same employer, costs charged to the employer's experience shall be limited as required by RCW 51.16.130.

(9) **Acts of terrorism.** Whenever any worker insured with the state fund sustains an injury or occupational disease as a result of an incident certified to be an act of terrorism under the U.S. Terrorism Risk Insurance Act of 2002, the costs of the resulting claim shall be excluded from the experience rating computation of the worker's employer.

(10) **Claims filed by preferred workers.** The costs of subsequent claims filed by certified preferred workers will not be included in experience calculations, as provided in WAC 296-16-010.

(11) **Life and rescue phase of emergencies:** This provision applies to "emergency workers" of nongovernmental employers assigned to report in classification 7205 (WAC

296-17A-7205) who assist in a life and rescue phase of a state or local emergency (disaster). The life and rescue phase of an emergency is defined in RCW 51.16.130(3) as being the first seventy-two hours after a natural or man-made disaster has occurred. For an employer to qualify for this special experience rating relief, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing survivors. This special relief is only applicable to nongovernmental employers during this initial seventy-two hour phase of the declared emergency unless the emergency has been extended by the official who declared the emergency. The cost of injuries or occupational disease claims filed by employees of nongovernmental employers assisting in the life and rescue phase of a declared emergency will not be charged to the experience record of the nongovernmental state fund employer.

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-875 Table I.

**Primary Losses for Selected Claim Values
Effective January 1, (~~2008~~) 2009**

CLAIM VALUE	PRIMARY LOSS
(5,000	5,000
10,000	10,000
15,000	15,000
20,112	20,112
29,834	25,000
44,627	30,000
69,102	35,000
100,000	38,627
200,000	43,690
222,141*	44,268
300,000	45,686
400,000	46,754
502,800**	47,434
1,000,000	47,434)
<u>5,000</u>	<u>5,000</u>
<u>10,000</u>	<u>10,000</u>
<u>15,000</u>	<u>15,000</u>
<u>20,112</u>	<u>20,112</u>
<u>29,834</u>	<u>25,000</u>
<u>44,627</u>	<u>30,000</u>
<u>69,102</u>	<u>35,000</u>
<u>100,000</u>	<u>38,627</u>
<u>117,385</u>	<u>40,000</u>
<u>200,000</u>	<u>43,690</u>
<u>217,994**</u>	<u>44,168</u>

(* Average death value)
** Maximum claim value

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-880 Table II.

**PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, (~~2008~~) 2009**

Maximum Claim Value = \$ (~~(502,800)~~) 217,994
Average Death Value = \$ (~~(222,141)~~) 217,994

Expected Losses	Primary Credibility	Excess Credibility
((1 - 7,329	12%	7%
7,330 - 7,822	13%	7%
7,823 - 8,323	14%	7%
8,324 - 8,829	15%	7%
8,830 - 9,340	16%	7%
9,341 - 9,859	17%	7%
9,860 - 10,384	18%	7%
10,385 - 10,915	19%	7%
10,916 - 11,454	20%	7%
11,455 - 12,000	21%	7%
12,001 - 12,555	22%	7%
12,556 - 13,116	23%	7%
13,117 - 13,687	24%	7%
13,688 - 14,267	25%	7%
14,268 - 14,855	26%	7%
14,856 - 15,452	27%	7%
15,453 - 16,061	28%	7%
16,062 - 16,680	29%	7%
16,681 - 17,310	30%	7%
17,311 - 17,953	31%	7%
17,954 - 18,608	32%	7%
18,609 - 19,277	33%	7%
19,278 - 19,959	34%	7%
19,960 - 20,657	35%	7%
20,658 - 21,371	36%	7%
21,372 - 22,103	37%	7%
22,104 - 22,855	38%	7%
22,856 - 23,626	39%	7%
23,627 - 24,420	40%	7%
24,421 - 25,238	41%	7%
25,239 - 26,083	42%	7%
26,084 - 26,957	43%	7%
26,958 - 27,864	44%	7%
27,865 - 28,808	45%	7%
28,809 - 29,793	46%	7%
29,794 - 30,826	47%	7%
30,827 - 31,914	48%	7%

Expected Losses	Primary Credibility	Excess Credibility	Expected Losses	Primary Credibility	Excess Credibility
31,915 - 33,068	49%	7%	722,067 - 750,373	73%	29%
33,069 - 34,301	50%	7%	750,374 - 756,827	74%	29%
34,302 - 35,631	51%	7%	756,828 - 790,696	74%	30%
35,632 - 37,087	52%	7%	790,697 - 791,817	75%	30%
37,088 - 38,711	53%	7%	791,818 - 827,037	75%	31%
38,712 - 38,877	54%	7%	827,038 - 831,019	75%	32%
38,878 - 40,583	54%	8%	831,020 - 862,490	76%	32%
40,584 - 42,867	55%	8%	862,491 - 871,342	76%	33%
42,868 - 64,878	56%	8%	871,343 - 898,177	77%	33%
64,879 - 71,508	57%	8%	898,178 - 911,666	77%	34%
71,509 - 102,139	57%	9%	911,667 - 934,102	78%	34%
102,140 - 105,201	57%	10%	934,103 - 951,989	78%	35%
105,202 - 132,958	58%	10%	951,990 - 970,266	79%	35%
132,959 - 145,525	58%	11%	970,267 - 992,312	79%	36%
145,526 - 163,970	59%	11%	992,313 - 1,006,672	80%	36%
163,971 - 185,847	59%	12%	1,006,673 - 1,032,635	80%	37%
185,848 - 195,170	60%	12%	1,032,636 - 1,043,322	81%	37%
195,171 - 226,171	60%	13%	1,043,323 - 1,072,958	81%	38%
226,172 - 226,566	61%	13%	1,072,959 - 1,080,220	82%	38%
226,567 - 258,158	61%	14%	1,080,221 - 1,113,282	82%	39%
258,159 - 266,494	61%	15%	1,113,283 - 1,117,368	83%	39%
266,495 - 289,948	62%	15%	1,117,369 - 1,153,607	83%	40%
289,949 - 306,817	62%	16%	1,153,607 - 1,154,768	84%	40%
306,818 - 321,937	63%	16%	1,154,769 - 1,192,421	84%	41%
321,938 - 347,141	63%	17%	1,192,422 - 1,193,927	84%	42%
347,142 - 354,127	64%	17%	1,193,928 - 1,230,331	85%	42%
354,128 - 386,519	64%	18%	1,230,332 - 1,234,251	85%	43%
386,520 - 387,463	64%	19%	1,234,252 - 1,268,503	86%	43%
387,464 - 419,119	65%	19%	1,268,504 - 1,274,575	86%	44%
419,120 - 427,786	65%	20%	1,274,576 - 1,306,935	87%	44%
427,787 - 451,925	66%	20%	1,306,936 - 1,314,899	87%	45%
451,926 - 468,110	66%	21%	1,314,900 - 1,345,634	88%	45%
468,111 - 484,939	67%	21%	1,345,635 - 1,355,221	88%	46%
484,940 - 508,434	67%	22%	1,355,221 - 1,384,601	89%	46%
508,435 - 518,165	68%	22%	1,384,602 - 1,395,544	89%	47%
518,166 - 548,757	68%	23%	1,395,545 - 1,423,838	90%	47%
548,757 - 551,603	69%	23%	1,423,839 - 1,435,868	90%	48%
551,604 - 585,257	69%	24%	1,435,869 - 1,463,350	91%	48%
585,258 - 589,079	69%	25%	1,463,350 - 1,476,191	91%	49%
589,080 - 619,128	70%	25%	1,476,191 - 1,503,137	92%	49%
619,129 - 629,403	70%	26%	1,503,137 - 1,516,515	92%	50%
629,404 - 653,218	71%	26%	1,516,515 - 1,543,204	93%	50%
653,219 - 669,727	71%	27%	1,543,204 - 1,556,837	93%	51%
669,728 - 687,531	72%	27%	1,556,838 - 1,583,552	94%	51%
687,532 - 710,049	72%	28%	1,583,553 - 1,597,161	94%	52%
710,050 - 722,066	73%	28%	1,597,161 - 1,624,187	95%	52%

Expected Losses	Primary Credibility	Excess Credibility	Expected Losses	Primary Credibility	Excess Credibility
1,624,188 - 1,637,483	95%	53%	10,177 = 10,697	19%	7%
1,637,484 - 1,665,109	96%	53%	10,698 = 11,225	20%	7%
1,665,110 - 1,677,807	96%	54%	11,226 = 11,760	21%	7%
1,677,808 - 1,706,322	97%	54%	11,761 = 12,304	22%	7%
1,706,323 - 1,718,130	97%	55%	12,305 = 12,854	23%	7%
1,718,131 - 1,747,831	98%	55%	12,855 = 13,413	24%	7%
1,747,832 - 1,758,453	98%	56%	13,414 = 13,982	25%	7%
1,758,454 - 1,789,638	99%	56%	13,983 = 14,558	26%	7%
1,789,639 - 1,798,776	99%	57%	14,559 = 15,143	27%	7%
1,798,777 - 1,831,746	100%	57%	15,144 = 15,740	28%	7%
1,831,747 - 1,874,157	100%	58%	15,741 = 16,346	29%	7%
1,874,158 - 1,916,876	100%	59%	16,347 = 16,964	30%	7%
1,916,877 - 1,959,906	100%	60%	16,965 = 17,594	31%	7%
1,959,907 - 2,003,250	100%	61%	17,595 = 18,236	32%	7%
2,003,251 - 2,046,912	100%	62%	18,237 = 18,891	33%	7%
2,046,913 - 2,090,895	100%	63%	18,892 = 19,560	34%	7%
2,090,896 - 2,135,202	100%	64%	19,561 = 20,244	35%	7%
2,135,203 - 2,179,839	100%	65%	20,245 = 20,944	36%	7%
2,179,840 - 2,224,808	100%	66%	20,945 = 21,661	37%	7%
2,224,809 - 2,270,113	100%	67%	21,662 = 22,398	38%	7%
2,270,114 - 2,315,756	100%	68%	22,399 = 23,153	39%	7%
2,315,757 - 2,361,744	100%	69%	23,154 = 23,932	40%	7%
2,361,745 - 2,408,078	100%	70%	23,933 = 24,733	41%	7%
2,408,079 - 2,454,764	100%	71%	24,734 = 25,561	42%	7%
2,454,765 - 2,501,806	100%	72%	25,562 = 26,418	43%	7%
2,501,807 - 2,549,205	100%	73%	26,419 = 27,307	44%	7%
2,549,206 - 2,596,970	100%	74%	27,308 = 28,232	45%	7%
2,596,971 - 2,645,101	100%	75%	28,233 = 29,197	46%	7%
2,645,102 - 2,693,604	100%	76%	29,198 = 30,209	47%	7%
2,693,605 - 2,742,484	100%	77%	30,210 = 31,276	48%	7%
2,742,485 - 2,791,745	100%	78%	31,277 = 32,407	49%	7%
2,791,746 - 2,841,390	100%	79%	32,408 = 33,615	50%	7%
2,841,391 - 2,891,425	100%	80%	33,616 = 34,918	51%	7%
2,891,426 - 2,941,855	100%	81%	34,919 = 36,345	52%	7%
2,941,856 - 2,992,683	100%	82%	36,346 = 37,937	53%	7%
2,992,684 - 3,043,915	100%	83%	37,938 = 38,099	54%	7%
3,043,916 - 3,095,555	100%	84%	38,100 = 39,771	54%	8%
3,095,556 - 3,147,609	100%	85%	39,772 = 42,010	55%	8%
3,147,610 & Over	100%	86%))	42,011 = 63,580	56%	8%
			63,581 = 70,078	57%	8%
1 = 7,182	12%	7%	70,079 = 100,096	57%	9%
7,183 = 7,666	13%	7%	100,097 = 103,097	57%	10%
7,667 = 8,157	14%	7%	103,098 = 130,299	58%	10%
8,158 = 8,652	15%	7%	130,300 = 142,614	58%	11%
8,653 = 9,153	16%	7%	142,615 = 160,691	59%	11%
9,154 = 9,662	17%	7%	160,692 = 182,130	59%	12%
9,663 = 10,176	18%	7%			

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
<u>182,131</u>	=	<u>191,267</u>	<u>60%</u>	<u>12%</u>	<u>1,011,983</u>	=	<u>1,022,456</u>	<u>81%</u>	<u>37%</u>
<u>191,268</u>	=	<u>221,648</u>	<u>60%</u>	<u>13%</u>	<u>1,022,457</u>	=	<u>1,051,499</u>	<u>81%</u>	<u>38%</u>
<u>221,649</u>	=	<u>222,035</u>	<u>61%</u>	<u>13%</u>	<u>1,051,500</u>	=	<u>1,058,616</u>	<u>82%</u>	<u>38%</u>
<u>222,036</u>	=	<u>252,995</u>	<u>61%</u>	<u>14%</u>	<u>1,058,617</u>	=	<u>1,091,016</u>	<u>82%</u>	<u>39%</u>
<u>252,996</u>	=	<u>261,164</u>	<u>61%</u>	<u>15%</u>	<u>1,091,017</u>	=	<u>1,095,021</u>	<u>83%</u>	<u>39%</u>
<u>261,165</u>	=	<u>284,149</u>	<u>62%</u>	<u>15%</u>	<u>1,095,022</u>	=	<u>1,130,534</u>	<u>83%</u>	<u>40%</u>
<u>284,150</u>	=	<u>300,681</u>	<u>62%</u>	<u>16%</u>	<u>1,130,535</u>	=	<u>1,131,673</u>	<u>84%</u>	<u>40%</u>
<u>300,682</u>	=	<u>315,498</u>	<u>63%</u>	<u>16%</u>	<u>1,131,674</u>	=	<u>1,168,573</u>	<u>84%</u>	<u>41%</u>
<u>315,499</u>	=	<u>340,198</u>	<u>63%</u>	<u>17%</u>	<u>1,168,574</u>	=	<u>1,170,048</u>	<u>84%</u>	<u>42%</u>
<u>340,199</u>	=	<u>347,044</u>	<u>64%</u>	<u>17%</u>	<u>1,170,049</u>	=	<u>1,205,724</u>	<u>85%</u>	<u>42%</u>
<u>347,045</u>	=	<u>378,789</u>	<u>64%</u>	<u>18%</u>	<u>1,205,725</u>	=	<u>1,209,566</u>	<u>85%</u>	<u>43%</u>
<u>378,790</u>	=	<u>379,714</u>	<u>64%</u>	<u>19%</u>	<u>1,209,567</u>	=	<u>1,243,133</u>	<u>86%</u>	<u>43%</u>
<u>379,715</u>	=	<u>410,737</u>	<u>65%</u>	<u>19%</u>	<u>1,243,134</u>	=	<u>1,249,083</u>	<u>86%</u>	<u>44%</u>
<u>410,738</u>	=	<u>419,230</u>	<u>65%</u>	<u>20%</u>	<u>1,249,084</u>	=	<u>1,280,796</u>	<u>87%</u>	<u>44%</u>
<u>419,231</u>	=	<u>442,886</u>	<u>66%</u>	<u>20%</u>	<u>1,280,797</u>	=	<u>1,288,601</u>	<u>87%</u>	<u>45%</u>
<u>442,887</u>	=	<u>458,748</u>	<u>66%</u>	<u>21%</u>	<u>1,288,602</u>	=	<u>1,318,721</u>	<u>88%</u>	<u>45%</u>
<u>458,749</u>	=	<u>475,240</u>	<u>67%</u>	<u>21%</u>	<u>1,318,722</u>	=	<u>1,328,116</u>	<u>88%</u>	<u>46%</u>
<u>475,241</u>	=	<u>498,265</u>	<u>67%</u>	<u>22%</u>	<u>1,328,117</u>	=	<u>1,356,909</u>	<u>89%</u>	<u>46%</u>
<u>498,266</u>	=	<u>507,802</u>	<u>68%</u>	<u>22%</u>	<u>1,356,910</u>	=	<u>1,367,633</u>	<u>89%</u>	<u>47%</u>
<u>507,803</u>	=	<u>537,781</u>	<u>68%</u>	<u>23%</u>	<u>1,367,634</u>	=	<u>1,395,361</u>	<u>90%</u>	<u>47%</u>
<u>537,782</u>	=	<u>540,571</u>	<u>69%</u>	<u>23%</u>	<u>1,395,362</u>	=	<u>1,407,151</u>	<u>90%</u>	<u>48%</u>
<u>540,572</u>	=	<u>573,552</u>	<u>69%</u>	<u>24%</u>	<u>1,407,152</u>	=	<u>1,434,082</u>	<u>91%</u>	<u>48%</u>
<u>573,553</u>	=	<u>577,297</u>	<u>69%</u>	<u>25%</u>	<u>1,434,083</u>	=	<u>1,446,666</u>	<u>91%</u>	<u>49%</u>
<u>577,298</u>	=	<u>606,745</u>	<u>70%</u>	<u>25%</u>	<u>1,446,667</u>	=	<u>1,473,073</u>	<u>92%</u>	<u>49%</u>
<u>606,746</u>	=	<u>616,815</u>	<u>70%</u>	<u>26%</u>	<u>1,473,074</u>	=	<u>1,486,184</u>	<u>92%</u>	<u>50%</u>
<u>616,816</u>	=	<u>640,154</u>	<u>71%</u>	<u>26%</u>	<u>1,486,185</u>	=	<u>1,512,339</u>	<u>93%</u>	<u>50%</u>
<u>640,155</u>	=	<u>656,332</u>	<u>71%</u>	<u>27%</u>	<u>1,512,340</u>	=	<u>1,525,700</u>	<u>93%</u>	<u>51%</u>
<u>656,333</u>	=	<u>673,780</u>	<u>72%</u>	<u>27%</u>	<u>1,525,701</u>	=	<u>1,551,881</u>	<u>94%</u>	<u>51%</u>
<u>673,781</u>	=	<u>695,848</u>	<u>72%</u>	<u>28%</u>	<u>1,551,882</u>	=	<u>1,565,217</u>	<u>94%</u>	<u>52%</u>
<u>695,849</u>	=	<u>707,625</u>	<u>73%</u>	<u>28%</u>	<u>1,565,218</u>	=	<u>1,591,703</u>	<u>95%</u>	<u>52%</u>
<u>707,626</u>	=	<u>735,366</u>	<u>73%</u>	<u>29%</u>	<u>1,591,704</u>	=	<u>1,604,733</u>	<u>95%</u>	<u>53%</u>
<u>735,367</u>	=	<u>741,690</u>	<u>74%</u>	<u>29%</u>	<u>1,604,734</u>	=	<u>1,631,807</u>	<u>96%</u>	<u>53%</u>
<u>741,691</u>	=	<u>774,882</u>	<u>74%</u>	<u>30%</u>	<u>1,631,808</u>	=	<u>1,644,251</u>	<u>96%</u>	<u>54%</u>
<u>774,883</u>	=	<u>775,981</u>	<u>75%</u>	<u>30%</u>	<u>1,644,252</u>	=	<u>1,672,196</u>	<u>97%</u>	<u>54%</u>
<u>775,982</u>	=	<u>810,496</u>	<u>75%</u>	<u>31%</u>	<u>1,672,197</u>	=	<u>1,683,767</u>	<u>97%</u>	<u>55%</u>
<u>810,497</u>	=	<u>814,399</u>	<u>75%</u>	<u>32%</u>	<u>1,683,768</u>	=	<u>1,712,874</u>	<u>98%</u>	<u>55%</u>
<u>814,400</u>	=	<u>845,240</u>	<u>76%</u>	<u>32%</u>	<u>1,712,875</u>	=	<u>1,723,284</u>	<u>98%</u>	<u>56%</u>
<u>845,241</u>	=	<u>853,915</u>	<u>76%</u>	<u>33%</u>	<u>1,723,285</u>	=	<u>1,753,845</u>	<u>99%</u>	<u>56%</u>
<u>853,916</u>	=	<u>880,213</u>	<u>77%</u>	<u>33%</u>	<u>1,753,846</u>	=	<u>1,762,800</u>	<u>99%</u>	<u>57%</u>
<u>880,214</u>	=	<u>893,433</u>	<u>77%</u>	<u>34%</u>	<u>1,762,801</u>	=	<u>1,795,111</u>	<u>100%</u>	<u>57%</u>
<u>893,434</u>	=	<u>915,420</u>	<u>78%</u>	<u>34%</u>	<u>1,795,112</u>	=	<u>1,836,674</u>	<u>100%</u>	<u>58%</u>
<u>915,421</u>	=	<u>932,949</u>	<u>78%</u>	<u>35%</u>	<u>1,836,675</u>	=	<u>1,878,538</u>	<u>100%</u>	<u>59%</u>
<u>932,950</u>	=	<u>950,861</u>	<u>79%</u>	<u>35%</u>	<u>1,878,539</u>	=	<u>1,920,708</u>	<u>100%</u>	<u>60%</u>
<u>950,862</u>	=	<u>972,466</u>	<u>79%</u>	<u>36%</u>	<u>1,920,709</u>	=	<u>1,963,185</u>	<u>100%</u>	<u>61%</u>
<u>972,467</u>	=	<u>986,539</u>	<u>80%</u>	<u>36%</u>	<u>1,963,186</u>	=	<u>2,005,974</u>	<u>100%</u>	<u>62%</u>
<u>986,540</u>	=	<u>1,011,982</u>	<u>80%</u>	<u>37%</u>	<u>2,005,975</u>	=	<u>2,049,077</u>	<u>100%</u>	<u>63%</u>

Expected Losses	Primary Credibility	Excess Credibility	Class	((2004) 2005)	((2005) 2006)	((2006) 2007)	Primary Ratio
<u>2,049,078</u> = <u>2,092,498</u>	<u>100%</u>	<u>64%</u>	0303	1.8522	1.5599	1.3274	0.424
<u>2,092,499</u> = <u>2,136,242</u>	<u>100%</u>	<u>65%</u>	0306	0.9924	0.8429	0.7153	0.476
<u>2,136,243</u> = <u>2,180,312</u>	<u>100%</u>	<u>66%</u>	0307	0.9680	0.8263	0.7048	0.489
<u>2,180,313</u> = <u>2,224,711</u>	<u>100%</u>	<u>67%</u>	0308	0.5505	0.4813	0.4157	0.573
<u>2,224,712</u> = <u>2,269,441</u>	<u>100%</u>	<u>68%</u>	0403	1.7153	1.4862	1.2730	0.551
<u>2,269,442</u> = <u>2,314,509</u>	<u>100%</u>	<u>69%</u>	0502	1.5269	1.2930	1.1003	0.452
<u>2,314,510</u> = <u>2,359,916</u>	<u>100%</u>	<u>70%</u>	0504	1.6228	1.3843	1.1935	0.453
<u>2,359,917</u> = <u>2,405,669</u>	<u>100%</u>	<u>71%</u>	0507	2.8623	2.4467	2.1105	0.463
<u>2,405,670</u> = <u>2,451,770</u>	<u>100%</u>	<u>72%</u>	0508	2.0131	1.6878	1.4382	0.399
<u>2,451,771</u> = <u>2,498,221</u>	<u>100%</u>	<u>73%</u>	0509	1.7184	1.4506	1.2404	0.426
<u>2,498,222</u> = <u>2,545,031</u>	<u>100%</u>	<u>74%</u>	0510	1.5547	1.3367	1.1481	0.504
<u>2,545,032</u> = <u>2,592,199</u>	<u>100%</u>	<u>75%</u>	0511	1.6595	1.4119	1.2023	0.476
<u>2,592,200</u> = <u>2,639,732</u>	<u>100%</u>	<u>76%</u>	0512	1.5573	1.3180	1.1252	0.442
<u>2,639,733</u> = <u>2,687,634</u>	<u>100%</u>	<u>77%</u>	0513	0.8054	0.6888	0.5876	0.497
<u>2,687,635</u> = <u>2,735,910</u>	<u>100%</u>	<u>78%</u>	0514	1.8923	1.6142	1.3768	0.483
<u>2,735,911</u> = <u>2,784,562</u>	<u>100%</u>	<u>79%</u>	0516	1.6543	1.4050	1.2041	0.448
<u>2,784,563</u> = <u>2,833,596</u>	<u>100%</u>	<u>80%</u>	0517	1.8543	1.5812	1.3628	0.452
<u>2,833,597</u> = <u>2,883,018</u>	<u>100%</u>	<u>81%</u>	0518	1.5719	1.3289	1.1346	0.436
<u>2,883,019</u> = <u>2,932,829</u>	<u>100%</u>	<u>82%</u>	0519	2.2276	1.8804	1.6129	0.413
<u>2,932,830</u> = <u>2,983,037</u>	<u>100%</u>	<u>83%</u>	0521	0.5845	0.4999	0.4293	0.477
<u>2,983,038</u> = <u>3,033,644</u>	<u>100%</u>	<u>84%</u>	0601	0.6563	0.5607	0.4794	0.487
<u>3,033,645</u> = <u>3,084,657</u>	<u>100%</u>	<u>85%</u>	0602	0.8052	0.6874	0.5826	0.507
<u>3,084,658</u> & over	<u>100%</u>	<u>86%</u>	0603	1.0259	0.8643	0.7365	0.425
			0604	1.0123	0.8754	0.7570	0.518
			0606	0.5511	0.4790	0.4114	0.563
			0607	0.5412	0.4684	0.4011	0.548
			0608	0.3801	0.3264	0.2804	0.497
			0701	2.0548	1.7035	1.4377	0.369
			0803	0.4721	0.4102	0.3513	0.568
			0901	1.5719	1.3289	1.1346	0.436
			1002	1.0127	0.8718	0.7516	0.500
			1003	0.8071	0.6939	0.5987	0.494
			1004	0.5289	0.4545	0.3874	0.523
			1005	8.5188	7.2538	6.1992	0.461
			1007	0.3743	0.3200	0.2734	0.491
			1101	0.7394	0.6407	0.5501	0.545
			1102	1.3609	1.1635	0.9948	0.488
			1103	1.2423	1.0646	0.9225	0.459
			1104	0.5531	0.4824	0.4180	0.554
			1105	0.9232	0.7904	0.6803	0.479
			1106	0.3564	0.3107	0.2714	0.531
			1108	0.6580	0.5696	0.4893	0.542
			1109	1.5467	1.3391	1.1559	0.527
			1301	0.6416	0.5577	0.4698	0.608
			1303	0.2280	0.1989	0.1700	0.590
			1304	0.0295	0.0257	0.0220	0.561
			1305	0.4363	0.3802	0.3262	0.578
			1401	0.5078	0.4363	0.3821	0.446
			1404	0.7932	0.6908	0.5952	0.562
			1405	0.6071	0.5313	0.4534	0.608
			1407	0.5851	0.5096	0.4415	0.547
			1501	0.6072	0.5247	0.4492	0.541
			1507	0.5757	0.4971	0.4255	0.536
			1701	0.9505	0.8141	0.7003	0.478
			1702	2.1811	1.8244	1.5571	0.381

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-885 Table III.

Expected Loss Rates and Primary Ratios for Indicated Fiscal Year

Expected Loss Rates in Dollars Per Worker Hour Effective January 1, ((2008)) 2009

Class	((2004) 2005)	((2005) 2006)	((2006) 2007)	Primary Ratio
((0101)	1.2923	1.0989	0.9405	0.458
0103	1.7197	1.4658	1.2548	0.470
0104	0.9388	0.7998	0.6839	0.470
0105	1.3161	1.1381	0.9769	0.537
0107	1.2381	1.0485	0.8957	0.443
0108	0.9388	0.7998	0.6839	0.470
0112	0.7679	0.6562	0.5615	0.482
0201	2.4471	2.0570	1.7471	0.421
0202	3.1766	2.6829	2.3114	0.402
0210	1.1827	1.0011	0.8537	0.444
0212	1.3598	1.1538	0.9849	0.454
0214	1.3333	1.1325	0.9601	0.477
0217	1.1010	0.9403	0.8030	0.486
0219	0.9948	0.8514	0.7346	0.465
0301	0.6304	0.5471	0.4710	0.549
0302	1.9304	1.6320	1.3858	0.448

Class	((2004)) 2005	((2005)) 2006	((2006)) 2007	Primary Ratio	Class	((2004)) 2005	((2005)) 2006	((2006)) 2007	Primary Ratio
1703	0.8628	0.7253	0.6121	0.436	3602	0.1335	0.1166	0.1005	0.579
1704	0.9505	0.8141	0.7003	0.478	3603	0.4816	0.4182	0.3616	0.539
1801	0.5417	0.4624	0.4009	0.445	3604	0.8426	0.7275	0.6357	0.486
1802	0.7357	0.6339	0.5418	0.526	3605	0.5400	0.4673	0.3999	0.547
2002	0.7436	0.6465	0.5583	0.545	3701	0.2803	0.2432	0.2094	0.552
2004	0.9824	0.8551	0.7366	0.559	3702	0.4588	0.3996	0.3432	0.573
2007	0.4940	0.4277	0.3687	0.532	3708	0.6421	0.5541	0.4751	0.532
2008	0.3333	0.2868	0.2481	0.491	3802	0.2061	0.1805	0.1551	0.598
2009	0.4135	0.3614	0.3134	0.564	3808	0.4392	0.3769	0.3232	0.501
2101	0.6906	0.5975	0.5175	0.512	3901	0.1772	0.1568	0.1364	0.621
2102	0.5456	0.4770	0.4120	0.577	3902	0.4975	0.4336	0.3758	0.551
2104	0.3683	0.3237	0.2826	0.575	3903	1.1476	1.0011	0.8751	0.533
2105	0.5846	0.5108	0.4372	0.597	3905	0.1629	0.1435	0.1251	0.593
2106	0.4360	0.3804	0.3290	0.560	3906	0.4927	0.4302	0.3726	0.562
2201	0.2522	0.2189	0.1895	0.532	3909	0.2688	0.2368	0.2052	0.612
2202	0.7379	0.6394	0.5490	0.546	4002	1.4196	1.2198	1.0360	0.531
2203	0.4840	0.4235	0.3657	0.581	4101	0.3223	0.2786	0.2397	0.530
2204	0.2522	0.2189	0.1895	0.532	4103	0.4580	0.4042	0.3501	0.616
2401	0.5006	0.4343	0.3710	0.563	4107	0.1717	0.1489	0.1287	0.533
2903	0.6529	0.5685	0.4919	0.551	4108	0.1565	0.1361	0.1179	0.545
2904	0.7452	0.6447	0.5582	0.519	4109	0.2158	0.1868	0.1615	0.526
2905	0.5723	0.5017	0.4340	0.584	4201	0.7187	0.6169	0.5218	0.537
2906	0.3317	0.2882	0.2484	0.554	4301	0.6780	0.5939	0.5139	0.581
2907	0.5351	0.4686	0.4038	0.589	4302	0.6894	0.5996	0.5151	0.564
2908	1.0651	0.9131	0.7844	0.488	4304	1.0468	0.9092	0.7903	0.522
2909	0.3994	0.3482	0.3013	0.559	4305	1.2504	1.0771	0.9143	0.545
3101	0.9234	0.7891	0.6765	0.479	4401	0.4210	0.3638	0.3172	0.492
3102	0.2803	0.2432	0.2094	0.552	4402	0.8608	0.7544	0.6505	0.596
3103	0.5816	0.5023	0.4336	0.513	4404	0.5811	0.5083	0.4383	0.581
3104	0.6198	0.5321	0.4568	0.500	4501	0.1922	0.1698	0.1467	0.631
3105	0.7612	0.6597	0.5681	0.540	4502	0.0417	0.0364	0.0317	0.538
3303	0.4512	0.3934	0.3378	0.578	4504	0.1141	0.1010	0.0879	0.634
3304	0.4808	0.4230	0.3663	0.601	4601	0.7683	0.6664	0.5753	0.535
3309	0.4422	0.3826	0.3304	0.528	4802	0.3294	0.2859	0.2499	0.501
3402	0.5400	0.4666	0.4014	0.528	4803	0.3043	0.2685	0.2353	0.583
3403	0.2100	0.1810	0.1564	0.512	4804	0.5366	0.4700	0.4053	0.590
3404	0.4972	0.4326	0.3729	0.556	4805	0.3041	0.2668	0.2320	0.580
3405	0.3132	0.2718	0.2340	0.550	4806	0.0611	0.0533	0.0463	0.542
3406	0.2058	0.1808	0.1566	0.593	4808	0.5158	0.4462	0.3884	0.499
3407	0.7313	0.6286	0.5396	0.504	4809	0.3934	0.3457	0.3003	0.589
3408	0.1848	0.1622	0.1385	0.620	4810	0.1473	0.1297	0.1133	0.584
3409	0.1752	0.1554	0.1335	0.662	4811	0.2838	0.2493	0.2175	0.578
3410	0.2987	0.2618	0.2267	0.581	4812	0.4079	0.3574	0.3087	0.590
3411	0.4869	0.4196	0.3598	0.524	4813	0.1621	0.1421	0.1242	0.562
3412	0.5888	0.5021	0.4292	0.476	4900	0.3229	0.2727	0.2337	0.420
3414	0.5828	0.5036	0.4315	0.539	4901	0.0776	0.0667	0.0573	0.506
3415	0.8492	0.7238	0.6268	0.441	4902	0.1128	0.0984	0.0842	0.587
3501	1.0940	0.9459	0.8153	0.521	4903	0.1596	0.1401	0.1191	0.637
3503	0.3183	0.2808	0.2459	0.584	4904	0.0295	0.0259	0.0224	0.580
3506	1.0789	0.9140	0.7759	0.464	4905	0.3779	0.3326	0.2903	0.584
3509	0.4235	0.3735	0.3223	0.624	4906	0.0976	0.0853	0.0733	0.594
3510	0.3716	0.3246	0.2796	0.581	4907	0.0541	0.0471	0.0409	0.556
3511	0.7285	0.6298	0.5438	0.519	4908	0.0818	0.0721	0.0636	0.560
3512	0.3498	0.3061	0.2655	0.574	4909	0.0412	0.0363	0.0323	0.526
3513	0.4850	0.4173	0.3672	0.441	4910	0.4878	0.4221	0.3658	0.513

Class	((2004)) 2005	((2005)) 2006	((2006)) 2007	Primary Ratio	Class	((2004)) 2005	((2005)) 2006	((2006)) 2007	Primary Ratio
4911	0.0656	0.0567	0.0491	0.525	6409	0.8366	0.7179	0.6130	0.512
5001	5.7543	4.8570	4.1537	0.420	6410	0.2932	0.2549	0.2203	0.551
5002	0.6136	0.5330	0.4554	0.571	6501	0.1721	0.1513	0.1303	0.611
5003	2.1347	1.8047	1.5467	0.422	6502	0.0396	0.0346	0.0299	0.568
5004	0.9396	0.8078	0.7011	0.476	6503	0.0789	0.0678	0.0575	0.537
5005	0.6001	0.5112	0.4394	0.451	6504	0.4100	0.3625	0.3157	0.617
5006	1.5992	1.3483	1.1575	0.403	6505	0.1073	0.0950	0.0830	0.609
5101	0.9195	0.8002	0.6859	0.574	6506	0.1105	0.0974	0.0845	0.611
5103	0.7676	0.6723	0.5812	0.585	6509	0.3816	0.3350	0.2913	0.580
5106	0.7676	0.6723	0.5812	0.585	6510	0.4802	0.4092	0.3512	0.459
5108	0.9196	0.8058	0.6939	0.599	6511	0.3800	0.3342	0.2898	0.594
5109	0.5757	0.4972	0.4264	0.533	6512	0.2362	0.2059	0.1782	0.554
5201	0.4316	0.3736	0.3207	0.549	6601	0.1969	0.1720	0.1494	0.562
5204	0.9447	0.8089	0.7002	0.466	6602	0.5245	0.4572	0.3963	0.553
5206	0.4183	0.3594	0.3075	0.515	6603	0.3413	0.2963	0.2545	0.555
5207	0.1790	0.1585	0.1380	0.624	6604	0.0864	0.0760	0.0655	0.605
5208	0.8177	0.7068	0.6106	0.517	6605	0.3145	0.2775	0.2419	0.603
5209	0.7464	0.6422	0.5544	0.496	6607	0.1766	0.1539	0.1332	0.550
5301	0.0362	0.0317	0.0272	0.597	6608	0.5580	0.4695	0.3986	0.430
5302	0.0196	0.0170	0.0148	0.543	6620	4.3528	3.8318	3.2406	0.663
5305	0.0541	0.0478	0.0413	0.638	6704	0.1695	0.1484	0.1273	0.601
5306	0.0636	0.0560	0.0482	0.613	6705	0.8379	0.7423	0.6536	0.597
5307	0.5835	0.5056	0.4317	0.561	6706	0.3301	0.2880	0.2519	0.536
6103	0.0846	0.0749	0.0651	0.626	6707	3.6539	3.2686	2.8014	0.708
6104	0.3775	0.3315	0.2870	0.593	6708	8.9411	7.7752	6.9710	0.442
6105	0.3630	0.3140	0.2699	0.535	6709	0.2982	0.2632	0.2284	0.609
6107	0.1401	0.1235	0.1079	0.596	6801	0.6210	0.5398	0.4589	0.592
6108	0.4722	0.4150	0.3602	0.591	6802	0.4947	0.4336	0.3728	0.601
6109	0.0998	0.0866	0.0744	0.559	6803	0.9244	0.7739	0.6656	0.364
6110	0.6561	0.5712	0.4926	0.557	6804	0.2948	0.2563	0.2206	0.564
6121	0.3691	0.3200	0.2753	0.545	6809	5.0004	4.3792	3.8100	0.566
6201	0.3211	0.2747	0.2367	0.477	6901	0.0189	0.0181	0.0173	0.714
6202	0.6737	0.5847	0.5080	0.523	6902	1.0415	0.8768	0.7457	0.422
6203	0.1027	0.0921	0.0805	0.678	6903	7.6603	6.3919	5.5502	0.322
6204	0.1282	0.1124	0.0975	0.589	6904	0.4411	0.3857	0.3241	0.642
6205	0.2657	0.2321	0.2009	0.566	6905	0.3977	0.3474	0.2948	0.619
6206	0.2386	0.2085	0.1800	0.577	6906	0.1568	0.1466	0.1372	0.712
6207	1.1091	0.9711	0.8590	0.520	6907	1.3586	1.1822	1.0196	0.555
6208	0.2491	0.2194	0.1918	0.582	6908	0.4711	0.4105	0.3525	0.575
6209	0.3266	0.2862	0.2486	0.574	6909	0.1223	0.1076	0.0929	0.601
6301	0.1383	0.1175	0.1006	0.457	7100	0.0338	0.0292	0.0255	0.487
6302	0.1983	0.1738	0.1505	0.583	7101	0.0252	0.0216	0.0188	0.452
6303	0.0717	0.0622	0.0536	0.539	7102	4.3171	3.8400	3.4205	0.583
6304	0.4225	0.3724	0.3253	0.587	7103	0.6355	0.5498	0.4686	0.556
6305	0.1052	0.0928	0.0808	0.597	7104	0.0316	0.0278	0.0238	0.625
6306	0.3357	0.2926	0.2519	0.570	7105	0.0338	0.0299	0.0256	0.650
6308	0.0688	0.0602	0.0518	0.586	7106	0.2099	0.1850	0.1603	0.613
6309	0.1983	0.1738	0.1505	0.583	7107	0.2333	0.2050	0.1799	0.565
6402	0.2909	0.2572	0.2219	0.638	7108	0.2005	0.1767	0.1546	0.586
6403	0.1822	0.1605	0.1397	0.594	7109	0.1393	0.1230	0.1066	0.618
6404	0.2401	0.2105	0.1823	0.583	7110	0.3484	0.2991	0.2565	0.500
6405	0.5801	0.5004	0.4304	0.522	7111	0.3995	0.3422	0.2930	0.493
6406	0.1256	0.1108	0.0960	0.613	7112	0.6747	0.5883	0.5092	0.560
6407	0.2851	0.2494	0.2156	0.578	7113	0.3831	0.3361	0.2935	0.567
6408	0.4132	0.3594	0.3086	0.571	7114	0.5463	0.4826	0.4180	0.622

Class	(2004) 2005	(2005) 2006	(2006) 2007	Primary Ratio	Class	(2004) 2005	(2005) 2006	(2006) 2007	Primary Ratio
7115	0.5986	0.5259	0.4574	0.586	0603	0.9064	0.8339	0.7430	0.432
7116	0.7126	0.6229	0.5395	0.565	0604	0.9595	0.8931	0.7975	0.517
7117	1.7551	1.5436	1.3315	0.612	0606	0.5236	0.4859	0.4286	0.568
7118	1.4140	1.2356	1.0696	0.570	0607	0.5206	0.4814	0.4233	0.559
7119	1.3745	1.1991	1.0298	0.578	0608	0.3269	0.3029	0.2689	0.521
7120	6.3153	5.4661	4.7204	0.526	0701	1.7007	1.5501	1.3731	0.386
7121	5.8741	5.0835	4.3915	0.524	0803	0.4463	0.4139	0.3649	0.572
7122	0.5813	0.5145	0.4468	0.626	0901	1.3137	1.2111	1.0764	0.465
7201	1.5270	1.3180	1.1205	0.550	1002	0.9636	0.8943	0.7960	0.509
7202	0.0348	0.0300	0.0255	0.527	1003	0.7274	0.6756	0.6018	0.514
7203	0.1296	0.1148	0.1013	0.596	1004	0.5011	0.4620	0.4058	0.532
7204	0.0000	0.0000	0.0000	0.500	1005	7.6265	7.0229	6.2072	0.475
7301	0.5321	0.4605	0.4011	0.500	1007	0.3261	0.3009	0.2659	0.511
7302	1.0314	0.8964	0.7806	0.521	1101	0.7185	0.6663	0.5881	0.558
7307	0.5071	0.4424	0.3849	0.540	1102	1.2864	1.1866	1.0488	0.496
7308	0.3293	0.2913	0.2546	0.608	1103	1.1438	1.0616	0.9494	0.473
7309	0.2744	0.2421	0.2114	0.593))	1104	0.5376	0.5013	0.4454	0.571
0101	1.1562	1.0670	0.9468	0.480	1105	0.7964	0.7373	0.6551	0.499
0103	1.5678	1.4484	1.2836	0.496	1106	0.3284	0.3079	0.2769	0.547
0104	0.8114	0.7499	0.6659	0.491	1108	0.5909	0.5480	0.4853	0.548
0105	1.2149	1.1258	0.9936	0.557	1109	1.4481	1.3457	1.1965	0.527
0107	1.1768	1.0825	0.9605	0.455	1301	0.5816	0.5344	0.4621	0.597
0108	0.8114	0.7499	0.6659	0.491	1303	0.2141	0.1983	0.1740	0.591
0112	0.6373	0.5886	0.5212	0.498	1304	0.0288	0.0268	0.0236	0.565
0201	2.2215	2.0342	1.7997	0.432	1305	0.4386	0.4069	0.3580	0.584
0202	2.7095	2.5024	2.2426	0.418	1401	0.4469	0.4187	0.3798	0.461
0210	1.0292	0.9466	0.8370	0.471	1404	0.7793	0.7244	0.6397	0.576
0212	1.2184	1.1214	0.9923	0.472	1405	0.6098	0.5647	0.4936	0.610
0214	1.2444	1.1419	1.0035	0.492	1407	0.4967	0.4642	0.4148	0.549
0217	0.9368	0.8641	0.7622	0.512	1501	0.5680	0.5250	0.4616	0.554
0219	0.9462	0.8762	0.7798	0.489	1507	0.5571	0.5158	0.4552	0.548
0301	0.5890	0.5475	0.4841	0.569	1701	0.8495	0.7869	0.6988	0.503
0302	1.7372	1.5936	1.4058	0.463	1702	1.8111	1.6629	1.4848	0.394
0303	1.5862	1.4569	1.2918	0.441	1703	0.7548	0.6893	0.6055	0.450
0306	0.8978	0.8255	0.7275	0.496	1704	0.8495	0.7869	0.6988	0.503
0307	0.8328	0.7684	0.6801	0.505	1801	0.4614	0.4294	0.3869	0.462
0308	0.5078	0.4734	0.4202	0.567	1802	0.6890	0.6372	0.5627	0.540
0403	1.6154	1.4946	1.3168	0.548	2002	0.7191	0.6692	0.5944	0.550
0502	1.2311	1.1318	0.9986	0.481	2004	0.9173	0.8529	0.7536	0.575
0504	1.5270	1.4170	1.2676	0.472	2007	0.4876	0.4536	0.4032	0.544
0507	2.6212	2.4325	2.1752	0.480	2008	0.3074	0.2862	0.2562	0.511
0508	1.6792	1.5422	1.3731	0.418	2009	0.3874	0.3616	0.3216	0.579
0509	1.5868	1.4630	1.3080	0.426	2101	0.6318	0.5888	0.5258	0.529
0510	1.5211	1.4089	1.2506	0.507	2102	0.5212	0.4862	0.4308	0.588
0511	1.4512	1.3365	1.1793	0.501	2104	0.3335	0.3135	0.2811	0.590
0512	1.4284	1.3166	1.1726	0.449	2105	0.5533	0.5135	0.4518	0.597
0513	0.6867	0.6337	0.5594	0.515	2106	0.4079	0.3802	0.3377	0.569
0514	1.7034	1.5686	1.3833	0.504	2201	0.2389	0.2228	0.1986	0.540
0516	1.4116	1.3042	1.1588	0.481	2202	0.6754	0.6267	0.5551	0.545
0517	1.7007	1.5758	1.4079	0.468	2203	0.4633	0.4318	0.3821	0.584
0518	1.3137	1.2111	1.0764	0.465	2204	0.2389	0.2228	0.1986	0.540
0519	1.8165	1.6784	1.5010	0.440	2401	0.4804	0.4437	0.3876	0.585
0521	0.5353	0.4947	0.4378	0.507	2903	0.6153	0.5734	0.5091	0.570
0601	0.5686	0.5247	0.4639	0.510	2904	0.6711	0.6252	0.5575	0.541
0602	0.7117	0.6536	0.5731	0.518	2905	0.5710	0.5325	0.4719	0.587

Class	<u>((2004)) 2005</u>	<u>((2005)) 2006</u>	<u>((2006)) 2007</u>	Primary Ratio	Class	<u>((2004)) 2005</u>	<u>((2005)) 2006</u>	<u>((2006)) 2007</u>	Primary Ratio
2906	<u>0.3214</u>	<u>0.2992</u>	<u>0.2658</u>	<u>0.566</u>	4301	<u>0.6200</u>	<u>0.5796</u>	<u>0.5157</u>	<u>0.581</u>
2907	<u>0.5212</u>	<u>0.4847</u>	<u>0.4278</u>	<u>0.593</u>	4302	<u>0.6562</u>	<u>0.6092</u>	<u>0.5379</u>	<u>0.569</u>
2908	<u>0.9535</u>	<u>0.8834</u>	<u>0.7846</u>	<u>0.508</u>	4304	<u>0.9406</u>	<u>0.8791</u>	<u>0.7859</u>	<u>0.545</u>
2909	<u>0.3764</u>	<u>0.3511</u>	<u>0.3126</u>	<u>0.563</u>	4305	<u>1.1533</u>	<u>1.0632</u>	<u>0.9289</u>	<u>0.566</u>
3101	<u>0.7551</u>	<u>0.6984</u>	<u>0.6199</u>	<u>0.504</u>	4401	<u>0.3874</u>	<u>0.3624</u>	<u>0.3269</u>	<u>0.511</u>
3102	<u>0.2672</u>	<u>0.2483</u>	<u>0.2204</u>	<u>0.552</u>	4402	<u>0.8352</u>	<u>0.7777</u>	<u>0.6861</u>	<u>0.601</u>
3103	<u>0.5267</u>	<u>0.4894</u>	<u>0.4352</u>	<u>0.524</u>	4404	<u>0.5295</u>	<u>0.4936</u>	<u>0.4385</u>	<u>0.572</u>
3104	<u>0.5776</u>	<u>0.5350</u>	<u>0.4741</u>	<u>0.528</u>	4501	<u>0.1860</u>	<u>0.1741</u>	<u>0.1546</u>	<u>0.630</u>
3105	<u>0.6844</u>	<u>0.6365</u>	<u>0.5667</u>	<u>0.541</u>	4502	<u>0.0384</u>	<u>0.0360</u>	<u>0.0324</u>	<u>0.542</u>
3303	<u>0.4308</u>	<u>0.4002</u>	<u>0.3524</u>	<u>0.586</u>	4504	<u>0.1105</u>	<u>0.1037</u>	<u>0.0925</u>	<u>0.630</u>
3304	<u>0.4656</u>	<u>0.4353</u>	<u>0.3868</u>	<u>0.590</u>	4601	<u>0.7222</u>	<u>0.6716</u>	<u>0.5962</u>	<u>0.546</u>
3309	<u>0.3950</u>	<u>0.3675</u>	<u>0.3273</u>	<u>0.534</u>	4802	<u>0.3232</u>	<u>0.3027</u>	<u>0.2724</u>	<u>0.517</u>
3402	<u>0.5099</u>	<u>0.4733</u>	<u>0.4201</u>	<u>0.541</u>	4803	<u>0.3087</u>	<u>0.2906</u>	<u>0.2609</u>	<u>0.588</u>
3403	<u>0.1942</u>	<u>0.1807</u>	<u>0.1614</u>	<u>0.528</u>	4804	<u>0.5167</u>	<u>0.4821</u>	<u>0.4270</u>	<u>0.595</u>
3404	<u>0.4860</u>	<u>0.4519</u>	<u>0.4011</u>	<u>0.557</u>	4805	<u>0.2888</u>	<u>0.2703</u>	<u>0.2405</u>	<u>0.594</u>
3405	<u>0.2888</u>	<u>0.2691</u>	<u>0.2394</u>	<u>0.570</u>	4806	<u>0.0578</u>	<u>0.0541</u>	<u>0.0484</u>	<u>0.552</u>
3406	<u>0.2095</u>	<u>0.1955</u>	<u>0.1732</u>	<u>0.604</u>	4808	<u>0.4734</u>	<u>0.4427</u>	<u>0.3978</u>	<u>0.518</u>
3407	<u>0.7195</u>	<u>0.6653</u>	<u>0.5894</u>	<u>0.510</u>	4809	<u>0.3614</u>	<u>0.3384</u>	<u>0.3015</u>	<u>0.588</u>
3408	<u>0.1870</u>	<u>0.1733</u>	<u>0.1512</u>	<u>0.622</u>	4810	<u>0.1385</u>	<u>0.1302</u>	<u>0.1168</u>	<u>0.587</u>
3409	<u>0.1730</u>	<u>0.1612</u>	<u>0.1411</u>	<u>0.651</u>	4811	<u>0.2846</u>	<u>0.2672</u>	<u>0.2396</u>	<u>0.588</u>
3410	<u>0.2870</u>	<u>0.2679</u>	<u>0.2371</u>	<u>0.597</u>	4812	<u>0.3995</u>	<u>0.3727</u>	<u>0.3304</u>	<u>0.599</u>
3411	<u>0.4574</u>	<u>0.4234</u>	<u>0.3740</u>	<u>0.541</u>	4813	<u>0.1526</u>	<u>0.1432</u>	<u>0.1283</u>	<u>0.576</u>
3412	<u>0.5295</u>	<u>0.4887</u>	<u>0.4330</u>	<u>0.496</u>	4900	<u>0.2284</u>	<u>0.2107</u>	<u>0.1881</u>	<u>0.434</u>
3414	<u>0.5329</u>	<u>0.4938</u>	<u>0.4363</u>	<u>0.547</u>	4901	<u>0.0657</u>	<u>0.0608</u>	<u>0.0541</u>	<u>0.517</u>
3415	<u>0.7533</u>	<u>0.7003</u>	<u>0.6313</u>	<u>0.450</u>	4902	<u>0.1097</u>	<u>0.1017</u>	<u>0.0894</u>	<u>0.581</u>
3501	<u>1.0127</u>	<u>0.9402</u>	<u>0.8336</u>	<u>0.533</u>	4903	<u>0.1616</u>	<u>0.1497</u>	<u>0.1305</u>	<u>0.635</u>
3503	<u>0.2985</u>	<u>0.2810</u>	<u>0.2524</u>	<u>0.586</u>	4904	<u>0.0271</u>	<u>0.0253</u>	<u>0.0225</u>	<u>0.590</u>
3506	<u>0.8906</u>	<u>0.8186</u>	<u>0.7220</u>	<u>0.496</u>	4905	<u>0.3739</u>	<u>0.3510</u>	<u>0.3136</u>	<u>0.590</u>
3509	<u>0.4153</u>	<u>0.3876</u>	<u>0.3421</u>	<u>0.621</u>	4906	<u>0.0949</u>	<u>0.0881</u>	<u>0.0775</u>	<u>0.597</u>
3510	<u>0.3508</u>	<u>0.3265</u>	<u>0.2886</u>	<u>0.593</u>	4907	<u>0.0515</u>	<u>0.0480</u>	<u>0.0429</u>	<u>0.568</u>
3511	<u>0.6453</u>	<u>0.6001</u>	<u>0.5344</u>	<u>0.533</u>	4908	<u>0.0751</u>	<u>0.0709</u>	<u>0.0648</u>	<u>0.571</u>
3512	<u>0.3396</u>	<u>0.3180</u>	<u>0.2846</u>	<u>0.581</u>	4909	<u>0.0368</u>	<u>0.0350</u>	<u>0.0326</u>	<u>0.541</u>
3513	<u>0.4330</u>	<u>0.4067</u>	<u>0.3707</u>	<u>0.464</u>	4910	<u>0.4473</u>	<u>0.4169</u>	<u>0.3724</u>	<u>0.526</u>
3602	<u>0.1265</u>	<u>0.1177</u>	<u>0.1042</u>	<u>0.577</u>	4911	<u>0.0567</u>	<u>0.0528</u>	<u>0.0472</u>	<u>0.529</u>
3603	<u>0.4411</u>	<u>0.4113</u>	<u>0.3665</u>	<u>0.558</u>	5001	<u>5.5327</u>	<u>5.0944</u>	<u>4.5401</u>	<u>0.426</u>
3604	<u>0.7591</u>	<u>0.7122</u>	<u>0.6458</u>	<u>0.506</u>	5002	<u>0.5848</u>	<u>0.5412</u>	<u>0.4751</u>	<u>0.578</u>
3605	<u>0.5074</u>	<u>0.4695</u>	<u>0.4135</u>	<u>0.557</u>	5003	<u>1.9036</u>	<u>1.7553</u>	<u>1.5641</u>	<u>0.438</u>
3701	<u>0.2672</u>	<u>0.2483</u>	<u>0.2204</u>	<u>0.552</u>	5004	<u>0.8179</u>	<u>0.7624</u>	<u>0.6859</u>	<u>0.478</u>
3702	<u>0.4288</u>	<u>0.3982</u>	<u>0.3516</u>	<u>0.579</u>	5005	<u>0.5412</u>	<u>0.5010</u>	<u>0.4474</u>	<u>0.460</u>
3708	<u>0.5698</u>	<u>0.5277</u>	<u>0.4662</u>	<u>0.546</u>	5006	<u>1.3323</u>	<u>1.2287</u>	<u>1.0987</u>	<u>0.417</u>
3802	<u>0.1960</u>	<u>0.1824</u>	<u>0.1612</u>	<u>0.584</u>	5101	<u>0.8723</u>	<u>0.8090</u>	<u>0.7124</u>	<u>0.576</u>
3808	<u>0.4003</u>	<u>0.3705</u>	<u>0.3285</u>	<u>0.512</u>	5103	<u>0.7195</u>	<u>0.6722</u>	<u>0.5982</u>	<u>0.587</u>
3901	<u>0.1713</u>	<u>0.1608</u>	<u>0.1432</u>	<u>0.622</u>	5106	<u>0.7195</u>	<u>0.6722</u>	<u>0.5982</u>	<u>0.587</u>
3902	<u>0.4549</u>	<u>0.4247</u>	<u>0.3790</u>	<u>0.558</u>	5108	<u>0.8745</u>	<u>0.8153</u>	<u>0.7217</u>	<u>0.599</u>
3903	<u>1.0700</u>	<u>1.0036</u>	<u>0.9024</u>	<u>0.545</u>	5109	<u>0.5085</u>	<u>0.4712</u>	<u>0.4172</u>	<u>0.542</u>
3905	<u>0.1539</u>	<u>0.1445</u>	<u>0.1290</u>	<u>0.598</u>	5201	<u>0.3942</u>	<u>0.3658</u>	<u>0.3236</u>	<u>0.559</u>
3906	<u>0.4859</u>	<u>0.4535</u>	<u>0.4028</u>	<u>0.574</u>	5204	<u>0.8403</u>	<u>0.7807</u>	<u>0.6988</u>	<u>0.486</u>
3909	<u>0.2632</u>	<u>0.2462</u>	<u>0.2190</u>	<u>0.603</u>	5206	<u>0.3796</u>	<u>0.3511</u>	<u>0.3109</u>	<u>0.527</u>
4002	<u>1.2877</u>	<u>1.1863</u>	<u>1.0410</u>	<u>0.535</u>	5207	<u>0.1725</u>	<u>0.1620</u>	<u>0.1445</u>	<u>0.613</u>
4101	<u>0.3152</u>	<u>0.2927</u>	<u>0.2596</u>	<u>0.547</u>	5208	<u>0.7596</u>	<u>0.7068</u>	<u>0.6299</u>	<u>0.535</u>
4103	<u>0.4645</u>	<u>0.4337</u>	<u>0.3840</u>	<u>0.612</u>	5209	<u>0.6645</u>	<u>0.6183</u>	<u>0.5530</u>	<u>0.510</u>
4107	<u>0.1570</u>	<u>0.1461</u>	<u>0.1300</u>	<u>0.543</u>	5300	<u>0.1122</u>	<u>0.1041</u>	<u>0.0915</u>	<u>0.598</u>
4108	<u>0.1559</u>	<u>0.1453</u>	<u>0.1290</u>	<u>0.568</u>	5301	<u>0.0361</u>	<u>0.0336</u>	<u>0.0296</u>	<u>0.599</u>
4109	<u>0.1966</u>	<u>0.1831</u>	<u>0.1633</u>	<u>0.538</u>	5302	<u>0.0176</u>	<u>0.0165</u>	<u>0.0146</u>	<u>0.552</u>
4201	<u>0.6706</u>	<u>0.6153</u>	<u>0.5360</u>	<u>0.545</u>	5305	<u>0.0536</u>	<u>0.0501</u>	<u>0.0444</u>	<u>0.630</u>

Class	(2004) 2005	(2005) 2006	(2006) 2007	Primary Ratio	Class	(2004) 2005	(2005) 2006	(2006) 2007	Primary Ratio
5306	0.0627	0.0584	0.0517	0.623	6620	3.8473	3.5456	3.0606	0.640
5307	0.5669	0.5238	0.4590	0.569	6704	0.1581	0.1469	0.1292	0.600
5308	0.0778	0.0724	0.0643	0.575	6705	0.7956	0.7499	0.6737	0.600
6103	0.0821	0.0770	0.0685	0.626	6706	0.3031	0.2847	0.2563	0.546
6104	0.3599	0.3361	0.2984	0.593	6707	4.1884	3.9195	3.4488	0.705
6105	0.3507	0.3250	0.2872	0.552	6708	7.9211	7.5419	7.0054	0.462
6107	0.1384	0.1304	0.1176	0.604	6709	0.2830	0.2648	0.2353	0.603
6108	0.4554	0.4257	0.3781	0.599	6801	0.6088	0.5619	0.4916	0.591
6109	0.0966	0.0897	0.0795	0.563	6802	0.5230	0.4859	0.4272	0.604
6110	0.6119	0.5696	0.5051	0.563	6803	0.7822	0.7206	0.6484	0.376
6120	0.2751	0.2555	0.2263	0.556	6804	0.2990	0.2783	0.2468	0.577
6121	0.3582	0.3325	0.2938	0.561	6809	4.7269	4.4272	3.9629	0.578
6201	0.2834	0.2631	0.2355	0.494	6901	0.0172	0.0175	0.0176	0.709
6202	0.6046	0.5644	0.5053	0.536	6902	0.9048	0.8310	0.7366	0.440
6203	0.1034	0.0974	0.0869	0.666	6903	6.1881	5.7401	5.2448	0.336
6204	0.1201	0.1124	0.1003	0.593	6904	0.4600	0.4218	0.3616	0.635
6205	0.2643	0.2462	0.2182	0.578	6905	0.3958	0.3654	0.3181	0.617
6206	0.2281	0.2127	0.1887	0.582	6906	0.1623	0.1606	0.1526	0.699
6207	1.0525	0.9947	0.9058	0.534	6907	1.2851	1.1955	1.0596	0.558
6208	0.2366	0.2225	0.1996	0.586	6908	0.4423	0.4105	0.3621	0.574
6209	0.3178	0.2973	0.2650	0.584	6909	0.1163	0.1087	0.0965	0.598
6301	0.1238	0.1143	0.1014	0.477	7100	0.0307	0.0286	0.0258	0.503
6302	0.1972	0.1840	0.1634	0.586	7101	0.0221	0.0206	0.0186	0.473
6303	0.0669	0.0621	0.0552	0.553	7102	4.1506	3.9492	3.6001	0.589
6304	0.4084	0.3835	0.3423	0.601	7103	0.6377	0.5888	0.5140	0.584
6305	0.1047	0.0980	0.0873	0.605	7104	0.0315	0.0293	0.0258	0.626
6306	0.3047	0.2833	0.2509	0.569	7105	0.0328	0.0305	0.0269	0.635
6308	0.0668	0.0622	0.0550	0.591	7106	0.2119	0.1981	0.1751	0.620
6309	0.1972	0.1840	0.1634	0.586	7107	0.2226	0.2096	0.1891	0.577
6402	0.2770	0.2585	0.2281	0.627	7108	0.2003	0.1879	0.1677	0.599
6403	0.1789	0.1677	0.1495	0.598	7109	0.1407	0.1316	0.1167	0.618
6404	0.2430	0.2271	0.2022	0.581	7110	0.3188	0.2949	0.2608	0.517
6405	0.5316	0.4928	0.4368	0.540	7111	0.3786	0.3492	0.3086	0.503
6406	0.1219	0.1143	0.1016	0.611	7112	0.6456	0.6027	0.5368	0.572
6407	0.2737	0.2555	0.2267	0.590	7113	0.3756	0.3519	0.3141	0.579
6408	0.3954	0.3674	0.3253	0.572	7114	0.4994	0.4676	0.4141	0.624
6409	0.7155	0.6613	0.5842	0.529	7115	0.6038	0.5652	0.5024	0.600
6410	0.2759	0.2572	0.2292	0.567	7116	0.6727	0.6273	0.5560	0.573
6501	0.1677	0.1562	0.1377	0.611	7117	1.6959	1.5800	1.3943	0.605
6502	0.0351	0.0327	0.0291	0.575	7118	1.3988	1.3064	1.1618	0.575
6503	0.0733	0.0675	0.0592	0.548	7119	1.3365	1.2407	1.0908	0.590
6504	0.3872	0.3636	0.3242	0.619	7120	5.8516	5.4438	4.8438	0.538
6505	0.1045	0.0985	0.0885	0.619	7121	5.4390	5.0611	4.5060	0.537
6506	0.1074	0.1005	0.0894	0.607	7122	0.5372	0.5032	0.4469	0.616
6509	0.3630	0.3398	0.3027	0.590	7200	1.2220	1.1259	0.9824	0.570
6510	0.4305	0.3978	0.3534	0.479	7201	1.4584	1.3430	1.1735	0.550
6511	0.3804	0.3557	0.3159	0.594	7202	0.0307	0.0284	0.0250	0.540
6512	0.1878	0.1750	0.1553	0.550	7203	0.1257	0.1192	0.1084	0.610
6601	0.1901	0.1775	0.1583	0.564	7204	0.0000	0.0000	0.0000	0.500
6602	0.5142	0.4798	0.4270	0.560	7205	0.0000	0.0000	0.0000	0.500
6603	0.3317	0.3080	0.2721	0.569	7301	0.4674	0.4370	0.3929	0.514
6604	0.0854	0.0797	0.0705	0.611	7302	0.9576	0.8954	0.8032	0.525
6605	0.3130	0.2938	0.2628	0.610	7307	0.4681	0.4376	0.3909	0.550
6607	0.1644	0.1534	0.1362	0.570	7308	0.3471	0.3262	0.2919	0.612
6608	0.4807	0.4406	0.3900	0.442	7309	0.2595	0.2438	0.2181	0.596

Class	(2004) 2005	(2005) 2006	(2006) 2007	Primary Ratio
7400	1.4584	1.3430	1.1735	0.550
Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed				
Class	(2004) 2005	(2005) 2006	(2006) 2007	Primary Ratio
(0540)	0.0218	0.0186	0.0158	0.463
0541	0.0129	0.0109	0.0093	0.442
0550	0.0282	0.0235	0.0200	0.385
0551	0.0167	0.0140	0.0119	0.392))
0540	0.0185	0.0170	0.0151	0.487
0541	0.0106	0.0098	0.0087	0.465
0550	0.0223	0.0205	0.0183	0.400
0551	0.0137	0.0126	0.0112	0.416

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-890 Table IV.

**Maximum experience modifications
for firms with no compensable accidents:
Effective (~~(1/1/2008)~~) 1/1/2009**

Expected Loss Range	Maximum Experience Modification
(1 - 6,636	0.90
6,637 - 8,104	0.89
8,105 - 8,977	0.88
8,978 - 9,785	0.87
9,786 - 10,637	0.86
10,638 - 11,530	0.85
11,531 - 12,316	0.84
12,317 - 13,113	0.83
13,114 - 13,944	0.82
13,945 - 14,808	0.81
14,809 - 15,706	0.80
15,707 - 16,638	0.79
16,639 - 17,606	0.78
17,607 - 18,608	0.77
18,609 - 19,646	0.76
19,647 - 20,719	0.75
20,720 - 21,828	0.74
21,829 - 22,973	0.73
22,974 - 24,156	0.72
24,157 - 25,374	0.71
25,375 - 26,631	0.70
26,632 - 27,924	0.69
27,925 - 29,254	0.68
29,255 - 30,623	0.67

Expected Loss Range	Maximum Experience Modification
30,624 - 32,027	0.66
32,028 - 33,471	0.65
33,472 - 35,721	0.64
35,722 - 38,782	0.63
38,783 - 42,319	0.62
42,320 - 49,197	0.61
49,198 & Over	0.60))
1 - 6,503	0.90
6,504 - 7,942	0.89
7,943 - 8,797	0.88
8,798 - 9,589	0.87
9,590 - 10,424	0.86
10,425 - 11,299	0.85
11,300 - 12,070	0.84
12,071 - 12,851	0.83
12,852 - 13,665	0.82
13,666 - 14,512	0.81
14,513 - 15,392	0.80
15,393 - 16,305	0.79
16,306 - 17,254	0.78
17,255 - 18,236	0.77
18,237 - 19,253	0.76
19,254 - 20,305	0.75
20,306 - 21,391	0.74
21,392 - 22,514	0.73
22,515 - 23,673	0.72
23,674 - 24,867	0.71
24,868 - 26,098	0.70
26,099 - 27,366	0.69
27,367 - 28,669	0.68
28,670 - 30,011	0.67
30,012 - 31,386	0.66
31,387 - 32,802	0.65
32,803 - 35,007	0.64
35,008 - 38,006	0.63
38,007 - 41,473	0.62
41,474 - 48,213	0.61
48,214 & Over	0.60

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry. Industrial insurance accident fund and medical aid fund base rates by class of industry shall be as set forth below.

Base Rates Effective January 1, ((2008)) 2009			Base Rates Effective January 1, ((2008)) 2009		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
((0101	1.3976	0.7569	0803	0.4740	0.3431
0103	1.8375	1.0211	0901	1.7564	0.8790
0104	1.0147	0.5571	1002	1.0110	0.6969
0105	1.3287	0.9325	1003	0.8081	0.5610
0107	1.3718	0.6993	1004	0.5663	0.3293
0108	1.0147	0.5571	1005	9.2832	4.8682
0112	0.8199	0.4747	1007	0.4011	0.2306
0201	2.8463	1.2139	1101	0.7373	0.5220
0202	3.4002	1.8451	1102	1.4486	0.8079
0210	1.3188	0.6333	1103	1.2252	0.8425
0212	1.5001	0.7574	1104	0.5116	0.4459
0214	1.5157	0.7077	1105	0.9491	0.6070
0217	1.1863	0.6515	1106	0.3162	0.3128
0219	1.0164	0.6697	1108	0.6628	0.4866
0301	0.6154	0.4647	1109	1.4961	1.1065
0302	2.2113	0.9929	1301	0.6997	0.3829
0303	2.1198	0.9334	1303	0.2287	0.1676
0306	1.1251	0.5446	1304	0.0295	0.0220
0307	1.0570	0.5909	1305	0.4300	0.3236
0308	0.5121	0.4310	1401	0.4645	0.3825
0403	1.7332	1.1790	1404	0.7597	0.5933
0502	1.7183	0.8134	1405	0.6140	0.4667
0504	1.6701	1.0241	1407	0.5419	0.4532
0507	2.9215	1.8753	1501	0.6215	0.4104
0508	2.3191	0.9933	1507	0.5948	0.3963
0509	1.9060	0.9417	1701	0.9796	0.6133
0510	1.5905	1.0234	1702	2.5100	1.0602
0511	1.8421	0.9551	1703	1.0304	0.3841
0512	1.7354	0.8743	1704	0.9796	0.6133
0513	0.8687	0.4856	1801	0.5447	0.3893
0514	2.0708	1.1353	1802	0.7773	0.5017
0516	1.7840	0.9736	2002	0.7131	0.5700
0517	1.9147	1.1740	2004	0.9479	0.7397
0518	1.7564	0.8790	2007	0.4853	0.3658
0519	2.4405	1.2485	2008	0.3264	0.2425
0521	0.6078	0.3663	2009	0.3807	0.3486
0601	0.7082	0.4141	2101	0.6614	0.5199
0602	0.9060	0.4596	2102	0.5095	0.4368
0603	1.1671	0.5437	2104	0.3148	0.3351
0604	0.9791	0.7505	2105	0.5806	0.4454
0606	0.5448	0.4088	2106	0.4134	0.3594
0607	0.5506	0.3746	2201	0.2381	0.1895
0608	0.3929	0.2581	2202	0.7380	0.5282
0701	2.5420	0.7997	2203	0.4515	0.3858

Class	Base Rates Effective January 1, ((2008)) 2009		Class	Base Rates Effective January 1, ((2008)) 2009	
	Accident Fund	Medical Aid Fund		Accident Fund	Medical Aid Fund
2204	0.2381	0.1895	3708	0.6557	0.4400
2401	0.5140	0.3497	3802	0.1974	0.1626
2903	0.6150	0.5222	3808	0.4560	0.2873
2904	0.7154	0.5709	3901	0.1501	0.1667
2905	0.5264	0.4830	3902	0.4621	0.4047
2906	0.3266	0.2656	3903	1.0038	0.9838
2907	0.5072	0.4335	3905	0.1408	0.1541
2908	1.1021	0.6958	3906	0.4536	0.3941
2909	0.3745	0.3222	3909	0.2394	0.2380
3101	0.9795	0.5905	4002	1.5407	0.8397
3102	0.2751	0.2146	4101	0.3230	0.2363
3103	0.5695	0.4117	4103	0.4079	0.4155
3104	0.6427	0.4175	4107	0.1664	0.1351
3105	0.7554	0.5842	4108	0.1476	0.1286
3303	0.4405	0.3380	4109	0.2091	0.1674
3304	0.4313	0.4127	4201	0.8008	0.4084
3309	0.4287	0.3277	4301	0.6214	0.5537
3402	0.5440	0.3996	4302	0.6824	0.5197
3403	0.2069	0.1570	4304	0.9661	0.8251
3404	0.4833	0.3932	4305	1.3483	0.7513
3405	0.3089	0.2430	4401	0.3929	0.3434
3406	0.1892	0.1884	4402	0.7973	0.6825
3407	0.7525	0.4867	4404	0.5516	0.4728
3408	0.1849	0.1446	4501	0.1757	0.1839
3409	0.1583	0.1501	4502	0.0386	0.0376
3410	0.2708	0.2416	4504	0.0999	0.1190
3411	0.5005	0.3348	4601	0.7442	0.5735
3412	0.6373	0.3612	4801	1.4067	1.8451
3414	0.5950	0.4029	4802	0.2945	0.2696
3415	0.8608	0.5840	4803	0.2465	0.2800
3501	1.0809	0.7812	4804	0.5029	0.4312
3503	0.2621	0.3000	4805	0.2677	0.2642
3506	1.2340	0.5977	4806	0.0552	0.0507
3509	0.3815	0.3569	4808	0.4795	0.4017
3510	0.3560	0.2995	4809	0.3456	0.3350
3511	0.7162	0.5477	4810	0.1255	0.1364
3512	0.3240	0.3196	4811	0.2483	0.2695
3513	0.4304	0.3916	4812	0.3805	0.3469
3602	0.1277	0.1074	4813	0.1392	0.1463
3603	0.4635	0.3881	4900	0.3535	0.1786
3604	0.7732	0.6913	4901	0.0796	0.0546
3605	0.5549	0.3756	4902	0.1128	0.0840
3701	0.2751	0.2146	4903	0.1628	0.1238
3702	0.4540	0.3592	4904	0.0275	0.0256

Base Rates Effective January 1, ((2008)) 2009			Base Rates Effective January 1, ((2008)) 2009		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
4905	0.3193	0.3378	6206	0.2236	0.1936
4906	0.0948	0.0770	6207	0.8819	1.0671
4907	0.0502	0.0458	6208	0.2100	0.2356
4908	0.0765	0.1166	6209	0.2951	0.2877
4909	0.0369	0.0649	6301	0.1496	0.0818
4910	0.4665	0.3703	6302	0.1813	0.1700
4911	0.0632	0.0513	6303	0.0705	0.0553
5001	6.3769	3.0302	6304	0.3554	0.3852
5002	0.6271	0.4375	6305	0.0904	0.0974
5003	2.3266	1.1565	6306	0.3243	0.2626
5004	0.9026	0.6638	6308	0.0653	0.0559
5005	0.6307	0.3616	6309	0.1813	0.1700
5006	1.7478	0.8728	6402	0.2613	0.2535
5101	0.9144	0.6798	6403	0.1585	0.1652
5103	0.7143	0.6546	6404	0.2190	0.2029
5106	0.7143	0.6546	6405	0.5873	0.4198
5108	0.8699	0.7534	6406	0.1114	0.1138
5109	0.5894	0.4109	6407	0.2650	0.2341
5201	0.4337	0.3134	6408	0.4086	0.3195
5204	0.9380	0.6509	6409	0.8920	0.5342
5206	0.4408	0.2832	6410	0.2815	0.2407
5207	0.1506	0.1685	6501	0.1604	0.1403
5208	0.8031	0.6183	6502	0.0377	0.0327
5209	0.7464	0.5384	6503	0.0870	0.0517
5300	0.1128	0.0840	6504	0.3477	0.3881
5301	0.0347	0.0302	6505	0.0897	0.1099
5302	0.0186	0.0156	6506	0.0973	0.0999
5305	0.0482	0.0494	6509	0.3370	0.3377
5306	0.0583	0.0557	6510	0.5078	0.2888
5307	0.5980	0.3891	6511	0.3361	0.3188
6103	0.0732	0.0830	6512	0.2180	0.1789
6104	0.3431	0.3189	6601	0.1786	0.1643
6105	0.3640	0.2618	6602	0.4819	0.4112
6107	0.1215	0.1500	6603	0.3385	0.2516
6108	0.4206	0.4159	6604	0.0803	0.0738
6109	0.0994	0.0777	6605	0.2745	0.3171
6110	0.6268	0.4957	6607	0.1653	0.1395
6120	0.2918	0.2190	6608	0.6480	0.2810
6121	0.3647	0.2738	6620	4.4945	3.1943
6201	0.3310	0.2269	6704	0.1639	0.1298
6202	0.6277	0.5453	6705	0.6547	0.8704
6203	0.0812	0.1155	6706	0.2846	0.2813
6204	0.1160	0.1170	6707	3.4185	3.7372
6205	0.2468	0.2154	6708	6.6988	8.9057

Base Rates Effective January 1, ((2008)) 2009			Base Rates Effective January 1, ((2008)) 2009		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
6709	0.2625	0.2703	7301	0.4920	0.4202
6801	0.6603	0.4714	7302	0.9354	0.8159
6802	0.4751	0.4076	7307	0.4591	0.4187
6803	1.0216	0.4912	7308	0.2779	0.3367
6804	0.2899	0.2336	7309	0.2294	0.2507
6809	4.5185	4.5429	7400	1.6186	0.9208))
6901	0.0000	0.0659	0101	1.4201	0.7919
6902	1.1946	0.5072	0103	1.8731	1.0883
6903	8.1636	4.3648	0104	0.9743	0.5776
6904	0.4812	0.2802	0105	1.3340	0.9448
6905	0.4155	0.2907	0107	1.5385	0.7554
6906	0.0000	0.2907	0108	0.9743	0.5776
6907	1.2985	1.0152	0112	0.7665	0.4485
6908	0.4647	0.3585	0201	3.0830	1.2529
6909	0.1126	0.1069	0202	3.4809	1.8499
7100	0.0314	0.0269	0210	1.3189	0.6465
7101	0.0244	0.0193	0212	1.5467	0.7824
7102	2.9961	4.7722	0214	1.6053	0.7553
7103	0.6616	0.4115	0217	1.1233	0.6366
7104	0.0300	0.0270	0219	1.1082	0.7109
7105	0.0314	0.0288	0301	0.6143	0.4811
7106	0.1847	0.1800	0302	2.3051	1.0352
7107	0.1957	0.2287	0303	2.1201	0.9602
7108	0.1666	0.1858	0306	1.1379	0.5825
7109	0.1230	0.1242	0307	1.0150	0.5969
7110	0.3611	0.2224	0308	0.5073	0.4317
7111	0.4214	0.2532	0403	1.8060	1.1964
7112	0.6291	0.5454	0502	1.5731	0.7752
7113	0.3275	0.3351	0504	1.7700	1.1499
7114	0.4767	0.4703	0507	3.0409	2.0125
7115	0.5213	0.5177	0508	2.2983	1.0135
7116	0.6503	0.5550	0509	2.0795	1.0417
7117	1.6093	1.4568	0510	1.7460	1.1258
7118	1.2987	1.1337	0511	1.8024	0.9758
7119	1.3315	1.0089	0512	1.8408	0.9556
7120	6.1411	4.7003	0513	0.8190	0.4795
7121	5.7028	4.3816	0514	2.1075	1.1506
7122	0.4964	0.5236	0516	1.7158	0.9922
7200	1.2949	0.7366	0517	2.0148	1.2441
7201	1.6186	0.9208	0518	1.6702	0.8978
7202	0.0370	0.0236	0519	2.2845	1.2724
7203	0.1014	0.1418	0521	0.6278	0.3759
7204	0.0000	0.0000	0601	0.6876	0.4100
7205	0.0000	0.0000	0602	0.8974	0.4551

Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
<u>0603</u>	<u>1.2107</u>	<u>0.5791</u>	<u>2106</u>	<u>0.4157</u>	<u>0.3654</u>
<u>0604</u>	<u>1.0350</u>	<u>0.7875</u>	<u>2201</u>	<u>0.2458</u>	<u>0.1994</u>
<u>0606</u>	<u>0.5603</u>	<u>0.4171</u>	<u>2202</u>	<u>0.7393</u>	<u>0.5364</u>
<u>0607</u>	<u>0.5815</u>	<u>0.3832</u>	<u>2203</u>	<u>0.4607</u>	<u>0.3990</u>
<u>0608</u>	<u>0.3748</u>	<u>0.2554</u>	<u>2204</u>	<u>0.2458</u>	<u>0.1994</u>
<u>0701</u>	<u>2.5621</u>	<u>0.8113</u>	<u>2401</u>	<u>0.5295</u>	<u>0.3538</u>
<u>0803</u>	<u>0.4786</u>	<u>0.3529</u>	<u>2903</u>	<u>0.6258</u>	<u>0.5344</u>
<u>0901</u>	<u>1.6702</u>	<u>0.8978</u>	<u>2904</u>	<u>0.7088</u>	<u>0.5718</u>
<u>1002</u>	<u>1.0846</u>	<u>0.7437</u>	<u>2905</u>	<u>0.5638</u>	<u>0.5072</u>
<u>1003</u>	<u>0.8101</u>	<u>0.5813</u>	<u>2906</u>	<u>0.3395</u>	<u>0.2840</u>
<u>1004</u>	<u>0.5915</u>	<u>0.3431</u>	<u>2907</u>	<u>0.5290</u>	<u>0.4463</u>
<u>1005</u>	<u>9.5086</u>	<u>5.0081</u>	<u>2908</u>	<u>1.0958</u>	<u>0.7203</u>
<u>1007</u>	<u>0.3929</u>	<u>0.2295</u>	<u>2909</u>	<u>0.3813</u>	<u>0.3349</u>
<u>1101</u>	<u>0.7735</u>	<u>0.5553</u>	<u>3101</u>	<u>0.8945</u>	<u>0.5634</u>
<u>1102</u>	<u>1.5531</u>	<u>0.8588</u>	<u>3102</u>	<u>0.2893</u>	<u>0.2229</u>
<u>1103</u>	<u>1.3179</u>	<u>0.8681</u>	<u>3103</u>	<u>0.5700</u>	<u>0.4152</u>
<u>1104</u>	<u>0.5364</u>	<u>0.4678</u>	<u>3104</u>	<u>0.6574</u>	<u>0.4421</u>
<u>1105</u>	<u>0.9318</u>	<u>0.5859</u>	<u>3105</u>	<u>0.7457</u>	<u>0.5906</u>
<u>1106</u>	<u>0.3199</u>	<u>0.3192</u>	<u>3303</u>	<u>0.4440</u>	<u>0.3465</u>
<u>1108</u>	<u>0.6549</u>	<u>0.4734</u>	<u>3304</u>	<u>0.4435</u>	<u>0.4226</u>
<u>1109</u>	<u>1.5631</u>	<u>1.1391</u>	<u>3309</u>	<u>0.4256</u>	<u>0.3217</u>
<u>1301</u>	<u>0.6644</u>	<u>0.3747</u>	<u>3402</u>	<u>0.5644</u>	<u>0.4175</u>
<u>1303</u>	<u>0.2283</u>	<u>0.1678</u>	<u>3403</u>	<u>0.2136</u>	<u>0.1620</u>
<u>1304</u>	<u>0.0313</u>	<u>0.0228</u>	<u>3404</u>	<u>0.5176</u>	<u>0.4135</u>
<u>1305</u>	<u>0.4609</u>	<u>0.3486</u>	<u>3405</u>	<u>0.2979</u>	<u>0.2621</u>
<u>1401</u>	<u>0.4643</u>	<u>0.3943</u>	<u>3406</u>	<u>0.2054</u>	<u>0.1967</u>
<u>1404</u>	<u>0.8011</u>	<u>0.6283</u>	<u>3407</u>	<u>0.8455</u>	<u>0.5224</u>
<u>1405</u>	<u>0.6416</u>	<u>0.4908</u>	<u>3408</u>	<u>0.1921</u>	<u>0.1522</u>
<u>1407</u>	<u>0.4924</u>	<u>0.4428</u>	<u>3409</u>	<u>0.1584</u>	<u>0.1481</u>
<u>1501</u>	<u>0.6417</u>	<u>0.4109</u>	<u>3410</u>	<u>0.2711</u>	<u>0.2471</u>
<u>1507</u>	<u>0.6234</u>	<u>0.4252</u>	<u>3411</u>	<u>0.5181</u>	<u>0.3454</u>
<u>1701</u>	<u>0.9739</u>	<u>0.6308</u>	<u>3412</u>	<u>0.6489</u>	<u>0.3729</u>
<u>1702</u>	<u>2.5254</u>	<u>1.0630</u>	<u>3414</u>	<u>0.5931</u>	<u>0.4101</u>
<u>1703</u>	<u>1.0537</u>	<u>0.3926</u>	<u>3415</u>	<u>0.8920</u>	<u>0.6069</u>
<u>1704</u>	<u>0.9739</u>	<u>0.6308</u>	<u>3501</u>	<u>1.1007</u>	<u>0.7991</u>
<u>1801</u>	<u>0.5388</u>	<u>0.3835</u>	<u>3503</u>	<u>0.2598</u>	<u>0.3053</u>
<u>1802</u>	<u>0.7997</u>	<u>0.5498</u>	<u>3506</u>	<u>1.1511</u>	<u>0.6000</u>
<u>2002</u>	<u>0.7511</u>	<u>0.6038</u>	<u>3509</u>	<u>0.3861</u>	<u>0.3638</u>
<u>2004</u>	<u>0.9427</u>	<u>0.7552</u>	<u>3510</u>	<u>0.3533</u>	<u>0.3053</u>
<u>2007</u>	<u>0.5193</u>	<u>0.4051</u>	<u>3511</u>	<u>0.6999</u>	<u>0.5424</u>
<u>2008</u>	<u>0.3369</u>	<u>0.2565</u>	<u>3512</u>	<u>0.3329</u>	<u>0.3418</u>
<u>2009</u>	<u>0.3815</u>	<u>0.3530</u>	<u>3513</u>	<u>0.4440</u>	<u>0.4103</u>
<u>2101</u>	<u>0.6651</u>	<u>0.5401</u>	<u>3602</u>	<u>0.1308</u>	<u>0.1085</u>
<u>2102</u>	<u>0.5103</u>	<u>0.4543</u>	<u>3603</u>	<u>0.4577</u>	<u>0.3961</u>
<u>2104</u>	<u>0.2978</u>	<u>0.3377</u>	<u>3604</u>	<u>0.7790</u>	<u>0.7499</u>
<u>2105</u>	<u>0.5766</u>	<u>0.4591</u>	<u>3605</u>	<u>0.5653</u>	<u>0.3873</u>

Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
<u>3701</u>	<u>0.2893</u>	<u>0.2229</u>	<u>4906</u>	<u>0.0983</u>	<u>0.0785</u>
<u>3702</u>	<u>0.4543</u>	<u>0.3588</u>	<u>4907</u>	<u>0.0518</u>	<u>0.0479</u>
<u>3708</u>	<u>0.6364</u>	<u>0.4331</u>	<u>4908</u>	<u>0.0770</u>	<u>0.1114</u>
<u>3802</u>	<u>0.1999</u>	<u>0.1676</u>	<u>4909</u>	<u>0.0373</u>	<u>0.0642</u>
<u>3808</u>	<u>0.4682</u>	<u>0.2971</u>	<u>4910</u>	<u>0.4714</u>	<u>0.3805</u>
<u>3901</u>	<u>0.1501</u>	<u>0.1699</u>	<u>4911</u>	<u>0.0611</u>	<u>0.0492</u>
<u>3902</u>	<u>0.4600</u>	<u>0.4107</u>	<u>5001</u>	<u>7.2480</u>	<u>3.4652</u>
<u>3903</u>	<u>1.0222</u>	<u>1.0146</u>	<u>5002</u>	<u>0.6387</u>	<u>0.4508</u>
<u>3905</u>	<u>0.1413</u>	<u>0.1547</u>	<u>5003</u>	<u>2.4263</u>	<u>1.2277</u>
<u>3906</u>	<u>0.4769</u>	<u>0.4227</u>	<u>5004</u>	<u>0.8974</u>	<u>0.6738</u>
<u>3909</u>	<u>0.2487</u>	<u>0.2507</u>	<u>5005</u>	<u>0.6526</u>	<u>0.3922</u>
<u>4002</u>	<u>1.5304</u>	<u>0.8604</u>	<u>5006</u>	<u>1.7310</u>	<u>0.8658</u>
<u>4101</u>	<u>0.3429</u>	<u>0.2565</u>	<u>5101</u>	<u>0.9327</u>	<u>0.6884</u>
<u>4103</u>	<u>0.4425</u>	<u>0.4299</u>	<u>5103</u>	<u>0.7072</u>	<u>0.6748</u>
<u>4107</u>	<u>0.1690</u>	<u>0.1352</u>	<u>5106</u>	<u>0.7072</u>	<u>0.6748</u>
<u>4108</u>	<u>0.1595</u>	<u>0.1353</u>	<u>5108</u>	<u>0.8683</u>	<u>0.7836</u>
<u>4109</u>	<u>0.2099</u>	<u>0.1680</u>	<u>5109</u>	<u>0.5732</u>	<u>0.4017</u>
<u>4201</u>	<u>0.8231</u>	<u>0.4123</u>	<u>5201</u>	<u>0.4313</u>	<u>0.3162</u>
<u>4301</u>	<u>0.5923</u>	<u>0.5603</u>	<u>5204</u>	<u>0.9572</u>	<u>0.6534</u>
<u>4302</u>	<u>0.6974</u>	<u>0.5380</u>	<u>5206</u>	<u>0.4430</u>	<u>0.2869</u>
<u>4304</u>	<u>0.9344</u>	<u>0.8358</u>	<u>5207</u>	<u>0.1518</u>	<u>0.1709</u>
<u>4305</u>	<u>1.3197</u>	<u>0.7852</u>	<u>5208</u>	<u>0.8149</u>	<u>0.6490</u>
<u>4401</u>	<u>0.4028</u>	<u>0.3654</u>	<u>5209</u>	<u>0.7339</u>	<u>0.5598</u>
<u>4402</u>	<u>0.8173</u>	<u>0.6911</u>	<u>5300</u>	<u>0.1172</u>	<u>0.0927</u>
<u>4404</u>	<u>0.5382</u>	<u>0.4726</u>	<u>5301</u>	<u>0.0371</u>	<u>0.0315</u>
<u>4501</u>	<u>0.1749</u>	<u>0.1947</u>	<u>5302</u>	<u>0.0185</u>	<u>0.0154</u>
<u>4502</u>	<u>0.0392</u>	<u>0.0374</u>	<u>5305</u>	<u>0.0500</u>	<u>0.0503</u>
<u>4504</u>	<u>0.1011</u>	<u>0.1194</u>	<u>5306</u>	<u>0.0590</u>	<u>0.0576</u>
<u>4601</u>	<u>0.7613</u>	<u>0.5948</u>	<u>5307</u>	<u>0.6305</u>	<u>0.4024</u>
<u>4802</u>	<u>0.3222</u>	<u>0.2955</u>	<u>5308</u>	<u>0.0809</u>	<u>0.0687</u>
<u>4803</u>	<u>0.2626</u>	<u>0.3063</u>	<u>6103</u>	<u>0.0742</u>	<u>0.0842</u>
<u>4804</u>	<u>0.5044</u>	<u>0.4592</u>	<u>6104</u>	<u>0.3463</u>	<u>0.3269</u>
<u>4805</u>	<u>0.2692</u>	<u>0.2691</u>	<u>6105</u>	<u>0.3871</u>	<u>0.2718</u>
<u>4806</u>	<u>0.0566</u>	<u>0.0530</u>	<u>6107</u>	<u>0.1275</u>	<u>0.1596</u>
<u>4808</u>	<u>0.4804</u>	<u>0.4246</u>	<u>6108</u>	<u>0.4337</u>	<u>0.4229</u>
<u>4809</u>	<u>0.3350</u>	<u>0.3336</u>	<u>6109</u>	<u>0.1051</u>	<u>0.0807</u>
<u>4810</u>	<u>0.1237</u>	<u>0.1406</u>	<u>6110</u>	<u>0.6270</u>	<u>0.5057</u>
<u>4811</u>	<u>0.2627</u>	<u>0.2910</u>	<u>6120</u>	<u>0.2949</u>	<u>0.2233</u>
<u>4812</u>	<u>0.3909</u>	<u>0.3642</u>	<u>6121</u>	<u>0.3840</u>	<u>0.2842</u>
<u>4813</u>	<u>0.1411</u>	<u>0.1479</u>	<u>6201</u>	<u>0.3319</u>	<u>0.2288</u>
<u>4900</u>	<u>0.2965</u>	<u>0.1511</u>	<u>6202</u>	<u>0.6250</u>	<u>0.5460</u>
<u>4901</u>	<u>0.0758</u>	<u>0.0528</u>	<u>6203</u>	<u>0.0836</u>	<u>0.1150</u>
<u>4902</u>	<u>0.1184</u>	<u>0.0869</u>	<u>6204</u>	<u>0.1147</u>	<u>0.1158</u>
<u>4903</u>	<u>0.1678</u>	<u>0.1350</u>	<u>6205</u>	<u>0.2645</u>	<u>0.2269</u>
<u>4904</u>	<u>0.0268</u>	<u>0.0256</u>	<u>6206</u>	<u>0.2276</u>	<u>0.1997</u>
<u>4905</u>	<u>0.3333</u>	<u>0.3588</u>	<u>6207</u>	<u>0.9275</u>	<u>1.1319</u>

Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
<u>6208</u>	<u>0.2111</u>	<u>0.2389</u>	<u>6809</u>	<u>4.6022</u>	<u>4.8001</u>
<u>6209</u>	<u>0.3054</u>	<u>0.3003</u>	<u>6901</u>	<u>0.0000</u>	<u>0.0619</u>
<u>6301</u>	<u>0.1543</u>	<u>0.0837</u>	<u>6902</u>	<u>1.2039</u>	<u>0.5354</u>
<u>6303</u>	<u>0.0722</u>	<u>0.0561</u>	<u>6903</u>	<u>8.2570</u>	<u>4.4850</u>
<u>6304</u>	<u>0.3606</u>	<u>0.3977</u>	<u>6904</u>	<u>0.5186</u>	<u>0.2985</u>
<u>6305</u>	<u>0.0954</u>	<u>0.1005</u>	<u>6905</u>	<u>0.4324</u>	<u>0.3028</u>
<u>6306</u>	<u>0.3201</u>	<u>0.2588</u>	<u>6906</u>	<u>0.0000</u>	<u>0.3028</u>
<u>6308</u>	<u>0.0671</u>	<u>0.0581</u>	<u>6907</u>	<u>1.3282</u>	<u>1.0454</u>
<u>6309</u>	<u>0.1936</u>	<u>0.1780</u>	<u>6908</u>	<u>0.4708</u>	<u>0.3619</u>
<u>6402</u>	<u>0.2597</u>	<u>0.2501</u>	<u>6909</u>	<u>0.1132</u>	<u>0.1088</u>
<u>6403</u>	<u>0.1624</u>	<u>0.1733</u>	<u>7100</u>	<u>0.0319</u>	<u>0.0277</u>
<u>6404</u>	<u>0.2345</u>	<u>0.2224</u>	<u>7101</u>	<u>0.0248</u>	<u>0.0200</u>
<u>6405</u>	<u>0.5954</u>	<u>0.4214</u>	<u>7102</u>	<u>3.0489</u>	<u>4.9215</u>
<u>6406</u>	<u>0.1118</u>	<u>0.1183</u>	<u>7103</u>	<u>0.7006</u>	<u>0.4465</u>
<u>6407</u>	<u>0.2674</u>	<u>0.2463</u>	<u>7104</u>	<u>0.0307</u>	<u>0.0293</u>
<u>6408</u>	<u>0.4230</u>	<u>0.3305</u>	<u>7105</u>	<u>0.0311</u>	<u>0.0288</u>
<u>6409</u>	<u>0.8370</u>	<u>0.5244</u>	<u>7106</u>	<u>0.1931</u>	<u>0.1909</u>
<u>6410</u>	<u>0.2856</u>	<u>0.2492</u>	<u>7107</u>	<u>0.1990</u>	<u>0.2367</u>
<u>6501</u>	<u>0.1624</u>	<u>0.1442</u>	<u>7108</u>	<u>0.1788</u>	<u>0.1952</u>
<u>6502</u>	<u>0.0366</u>	<u>0.0309</u>	<u>7109</u>	<u>0.1289</u>	<u>0.1308</u>
<u>6503</u>	<u>0.0883</u>	<u>0.0534</u>	<u>7110</u>	<u>0.3673</u>	<u>0.2290</u>
<u>6504</u>	<u>0.3398</u>	<u>0.3873</u>	<u>7111</u>	<u>0.4592</u>	<u>0.2625</u>
<u>6505</u>	<u>0.0908</u>	<u>0.1183</u>	<u>7112</u>	<u>0.6442</u>	<u>0.5805</u>
<u>6506</u>	<u>0.1002</u>	<u>0.1021</u>	<u>7113</u>	<u>0.3484</u>	<u>0.3457</u>
<u>6509</u>	<u>0.3408</u>	<u>0.3423</u>	<u>7114</u>	<u>0.4421</u>	<u>0.4636</u>
<u>6510</u>	<u>0.5165</u>	<u>0.3006</u>	<u>7115</u>	<u>0.5541</u>	<u>0.5533</u>
<u>6511</u>	<u>0.3539</u>	<u>0.3415</u>	<u>7116</u>	<u>0.6570</u>	<u>0.5633</u>
<u>6512</u>	<u>0.1913</u>	<u>0.1532</u>	<u>7117</u>	<u>1.6550</u>	<u>1.4537</u>
<u>6601</u>	<u>0.1878</u>	<u>0.1707</u>	<u>7118</u>	<u>1.3613</u>	<u>1.2231</u>
<u>6602</u>	<u>0.5114</u>	<u>0.4383</u>	<u>7119</u>	<u>1.3686</u>	<u>1.0544</u>
<u>6603</u>	<u>0.3522</u>	<u>0.2687</u>	<u>7120</u>	<u>6.2512</u>	<u>4.8373</u>
<u>6604</u>	<u>0.0827</u>	<u>0.0777</u>	<u>7121</u>	<u>5.8067</u>	<u>4.5171</u>
<u>6605</u>	<u>0.2896</u>	<u>0.3348</u>	<u>7122</u>	<u>0.4794</u>	<u>0.5044</u>
<u>6607</u>	<u>0.1633</u>	<u>0.1429</u>	<u>7200</u>	<u>1.3937</u>	<u>0.8325</u>
<u>6608</u>	<u>0.6594</u>	<u>0.2789</u>	<u>7201</u>	<u>1.6940</u>	<u>0.9449</u>
<u>6620</u>	<u>4.0932</u>	<u>2.6961</u>	<u>7202</u>	<u>0.0359</u>	<u>0.0229</u>
<u>6704</u>	<u>0.1594</u>	<u>0.1301</u>	<u>7203</u>	<u>0.1029</u>	<u>0.1602</u>
<u>6705</u>	<u>0.6642</u>	<u>0.8191</u>	<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>
<u>6706</u>	<u>0.2851</u>	<u>0.2866</u>	<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>
<u>6707</u>	<u>3.7267</u>	<u>4.7882</u>	<u>7301</u>	<u>0.4830</u>	<u>0.4187</u>
<u>6708</u>	<u>6.8366</u>	<u>9.4509</u>	<u>7302</u>	<u>0.9645</u>	<u>0.8427</u>
<u>6709</u>	<u>0.2634</u>	<u>0.2708</u>	<u>7307</u>	<u>0.4597</u>	<u>0.4214</u>
<u>6801</u>	<u>0.6947</u>	<u>0.4762</u>	<u>7308</u>	<u>0.3087</u>	<u>0.3690</u>
<u>6802</u>	<u>0.5344</u>	<u>0.4384</u>	<u>7309</u>	<u>0.2283</u>	<u>0.2551</u>
<u>6803</u>	<u>1.0751</u>	<u>0.4951</u>	<u>7400</u>	<u>1.6940</u>	<u>0.9449</u>
<u>6804</u>	<u>0.3131</u>	<u>0.2620</u>			

~~((In calendar year 2008, the department will pay such dividends from the accident fund to employers not participating in the retrospective rating program during the period July 1, 2007, through December 31, 2007, as the department's actuaries determine to be necessary to equalize the proportion of losses funded between retro and nonretro employers.))~~

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-89502 Industrial insurance accident fund, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications. The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

Base Rates Effective
January 1, ~~((2008))~~ 2009

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
((0540	0.0244	0.0118	0.0006
0541	0.0145	0.0066	0.0006
0550	0.0327	0.0131	0.0006
0551	0.0194	0.0077	0.0006))
<u>0540</u>	<u>0.0230</u>	<u>0.0121</u>	<u>0.0007</u>
<u>0541</u>	<u>0.0138</u>	<u>0.0066</u>	<u>0.0007</u>
<u>0550</u>	<u>0.0305</u>	<u>0.0132</u>	<u>0.0007</u>
<u>0551</u>	<u>0.0190</u>	<u>0.0078</u>	<u>0.0007</u>

~~((In calendar year 2008, the department will pay such dividends from the accident fund to employers not participating in the retrospective rating program during the period July 1, 2007, through December 31, 2007, as the department's actuaries determine to be necessary to equalize the proportion of losses funded between retro and nonretro employers.))~~

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-89504 Horse racing industry industrial insurance, medical aid, and supplemental pension by class.

Base Rates Effective
January 1, ~~((2008))~~ 2009

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
((6614	39*	20*	†
6615	284*	150*	†
6616	13*	6*	†
6617	100*	44*	†
6618	99*	25*	†
6622	526**	253**	†

Base Rates Effective
January 1, ~~((2008))~~ 2009

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
6623	130**	54**	†))
<u>6614</u>	<u>46*</u>	<u>48*</u>	<u>1</u>
<u>6615</u>	<u>302*</u>	<u>327*</u>	<u>1</u>
<u>6616</u>	<u>13*</u>	<u>11*</u>	<u>1</u>
<u>6617</u>	<u>103*</u>	<u>91*</u>	<u>1</u>
<u>6618</u>	<u>99*</u>	<u>50*</u>	<u>1</u>
<u>6622</u>	<u>501**</u>	<u>508**</u>	<u>1</u>
<u>6623</u>	<u>101**</u>	<u>83**</u>	<u>1</u>

* These rates are calculated on a per license basis for parimutuel race tracks and are base rated.
** These rates are calculated on a per 12 horse stalls for parimutuel race tracks and are base rated.

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-90492 Table I.

RETROSPECTIVE RATING PLANS A, A1, A2, A3, AND B
STANDARD PREMIUM SIZE RANGES
Effective January 1, ~~((2008))~~ 2009

Size Group Number	Standard Premium Range
((63	\$4,761 - \$5,751
62	5,752 - 6,907
61	6,908 - 8,219
60	8,220 - 9,723
59	9,724 - 11,445
58	11,446 - 13,379
57	13,380 - 15,589
56	15,590 - 17,929
55	17,930 - 20,399
54	20,400 - 22,999
53	23,000 - 25,749
52	25,750 - 28,629
51	28,630 - 31,639
50	31,640 - 34,809
49	34,810 - 38,129
48	38,130 - 41,489
47	41,490 - 44,869
46	44,870 - 48,579
45	48,580 - 52,699
44	52,700 - 57,289
43	57,290 - 62,369
42	62,370 - 68,069
41	68,070 - 74,439

Size Group Number	Standard Premium Range		Size Group Number	Standard Premium Range	
40	74,440	- 81,559	55	18,360	= 20,889
39	81,560	- 89,589	54	20,890	= 23,549
38	89,590	- 98,689	53	23,550	= 26,369
37	98,690	- 108,929	52	26,370	= 29,309
36	108,930	- 119,899	51	29,310	= 32,399
35	119,900	- 131,799	50	32,400	= 35,639
34	131,800	- 144,999	49	35,640	= 39,039
33	145,000	- 159,399	48	39,040	= 42,479
32	159,400	- 175,399	47	42,480	= 45,939
31	175,400	- 191,999	46	45,940	= 49,739
30	192,000	- 210,499	45	49,740	= 53,959
29	210,500	- 231,299	44	53,960	= 58,659
28	231,300	- 254,999	43	58,660	= 63,859
27	255,000	- 282,399	42	63,860	= 69,699
26	282,400	- 313,899	41	69,700	= 76,219
25	313,900	- 350,099	40	76,220	= 83,509
24	350,100	- 392,499	39	83,510	= 91,729
23	392,500	- 442,399	38	91,730	= 100,999
22	442,400	- 500,799	37	101,000	= 111,499
21	500,800	- 570,699	36	111,500	= 122,799
20	570,700	- 654,899	35	122,800	= 134,999
19	654,900	- 755,999	34	135,000	= 148,499
18	756,000	- 880,499	33	148,500	= 163,199
17	880,500	- 1,035,699	32	163,200	= 179,599
16	1,035,700	- 1,258,999	31	179,600	= 196,599
15	1,259,000	- 1,567,999	30	196,600	= 215,499
14	1,568,000	- 2,003,999	29	215,500	= 236,799
13	2,004,000	- 2,560,999	28	236,800	= 261,099
12	2,561,000	- 3,270,999	27	261,100	= 289,199
11	3,271,000	- 4,334,999	26	289,200	= 321,399
10	4,335,000	- 6,003,999	25	321,400	= 358,499
9	6,004,000	- 8,654,999	24	358,500	= 401,899
8	8,655,000	- 12,539,999	23	401,900	= 452,999
7	12,540,000	- 18,469,999	22	453,000	= 512,799
6	18,470,000	- 28,709,999	21	512,800	= 584,299
5	28,710,000	- 45,319,999	20	584,300	= 670,599
4	45,320,000 & Over))		19	670,600	= 774,099
63	\$4,875	= \$5,888	18	774,100	= 901,499
62	5,889	= 7,072	17	901,500	= 1,059,999
61	7,073	= 8,415	16	1,060,000	= 1,288,999
60	8,416	= 9,955	15	1,289,000	= 1,604,999
59	9,956	= 11,719	14	1,605,000	= 2,051,999
58	11,720	= 13,699	13	2,052,000	= 2,621,999
57	13,700	= 15,959	12	2,622,000	= 3,348,999
			11	3,349,000	= 4,438,999

Size Group Number	Standard Premium Range	
9	6,148,000	= 8,861,999
8	8,862,000	= 12,839,999
7	12,840,000	= 18,909,999
6	18,910,000	= 29,399,999
5	29,400,000	= 46,399,999
4	46,400,000 & Over	= 99,999,999

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-920 Assessment for supplemental pension fund. The amount of ~~((39.1))~~ 41.8 mils (~~(((\$0.0391))~~ \$0.0418) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-060. All such moneys shall be deposited in the supplemental pension fund.

AMENDATORY SECTION (Amending Order 77-27, filed 11/30/77, effective 1/1/78)

WAC 296-17-865 Experience modification limitations. ~~((1) Notwithstanding the experience modification otherwise obtained in this manual,))~~ No employer's experience modification factor shall increase or decrease by more than ~~((25%))~~ twenty-five percent during any one year ~~((except as provided in subparagraph (2) below.~~

~~(2) The 25% limitation on the change in the experience modification shall not apply in the following cases:~~

~~(a) In cases where it would cause an employer with better than average experience during the experience period to receive an experience modification greater than 1.00.~~

~~(b) In cases where it would cause an employer with worse than average experience during the experience period to receive a), as calculated according to WAC 296-17-855. However, if an employer's experience modification factor is calculated to be below 1.00 without this twenty-five percent limitation and that employer had an experience modification factor greater than 1.3333 in the previous year, then the experience modification ((less than 1.00.~~

~~In the above specified cases the employer's modification))~~ factor shall be ~~((allowed to decrease or to increase, as the case may be,))~~ set to 1.00.

The limitations in this section do not apply to changes in experience modification factors required by WAC 296-17-873 through 296-17-87306.

**WSR 08-19-116
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed September 17, 2008, 11:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-12-110.

Title of Rule and Other Identifying Information: The department is proposing to establish a quality Timothy seed program in Washington state by adding new rule sections to chapter 16-302 WAC, General rules for seed certification. The new sections are in response to a petition that the department received from the Organization of Kittitas County Timothy Hay Growers & Suppliers. They have been developed with the help of an ad hoc work group representing the production and consumption members of the Timothy seed industry and higher education research institutions.

Hearing Location(s): Washington Cattleman's Association, 1301 North Dolarway Road, Ellensburg, WA 98926, on Wednesday, October 29, 2008, at 2:00 p.m.

Date of Intended Adoption: November 14, 2008.

Submit Written Comments to: Teresa Norman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail wsdarulescomments@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m., October 29, 2008.

Assistance for Persons with Disabilities: Contact the agency receptionist, TTY (360) 902-1976.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to address issues raised by the Timothy hay growers and Timothy seed distributors of Washington. These issues revolve around the need for Timothy hay growers to have a mechanism to identify higher quality seed lots free from certain contaminants that are detrimental to Timothy hay production.

Reasons Supporting Proposal: Currently there is no program in place for the Timothy hay industry to identify high quality seed lots. The result is that seed lots are tested multiple times resulting in increased costs and time delays. This proposal will create a voluntary program by where Timothy seed lots will be tested utilizing a higher amount of seed than the standard purity test. Lots that are found to be free of particular contaminants will be tagged with a "Quality Timothy Seed" tag that will be readily identifiable to the distributors and growers thus providing a mechanism for the highest quality seed lots to be utilized for Timothy hay production. The result will be that Timothy seed lots would be tested only one time. From that the quality would be determined and would allow seed distributors to efficiently and confidently move seed to the appropriate markets.

Statutory Authority for Adoption: Chapters 15.49 and 34.05 RCW.

Statute Being Implemented: Chapter 15.49 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Organization of Kittitas County Timothy Hay Growers & Suppliers, private; and Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting: Victor Shaul, Yakima, Washington, (509) 249-6950; Implementation and Enforcement: Fawad Shah, Yakima, Washington, (509) 249-6959.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires an agency to prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on the businesses in an industry. Information provided to the department from the working group indicated that the current practice was to test Timothy seed lots multiple times by the different facets of the industry. This multiple testing did not enhance the value of the seed lot, but did result in added costs as the seed moved from the producer, the seed cleaner, the wholesaler, and then finally the grower. It was determined that this voluntary program would allow for the lot to be tested once at the beginning of the process and ultimately would reduce the total testing costs associated with moving a Timothy seed lot to market. The department has concluded that the Timothy seed industry does not consider the costs imposed by the proposed quality seed program to be "more than minor" and, therefore, has not prepared a formal SBEIS.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

September 17, 2008
Dennis Hannapel
Assistant Director

NEW SECTION

WAC 16-302-740 What are the standards for quality timothy seed certification? (1) The general seed certification definitions and standards found in WAC 16-302-005 through 16-302-130, the grass seed certification standards found in WAC 16-302-320 through 16-302-390, and the requirements found in WAC 16-302-745 through 16-302-755 constitute the standards for quality timothy seed certification.

(2) Fees for quality timothy seed certification are assessed by the certifying agency as established in chapter 16-303 WAC.

NEW SECTION

WAC 16-302-745 Seed certification requirements. (1) In order for a seed lot to be eligible for quality timothy seed certification it must meet field and seed certification standards as defined in WAC 16-302-330 through 16-302-385.

(2) For a timothy seed lot that has already been certified, a copy of the certification tag must be submitted as proof of certification.

NEW SECTION

WAC 16-302-750 Official sampling requirements. The seed test for the quality timothy seed program must be conducted on an officially drawn sample taken in accordance with WAC 16-302-090.

NEW SECTION

WAC 16-302-755 Standards for quality timothy seed. (1) Seed standards for quality timothy grass seed are as follows:

	Minimum Purity	Minimum Viability by Germination or TZ Test	Maximum Other Crop*	Maximum Weed**
Timothy seed	97%	85%	0.2%	.02%
Purity component percentages are based on 1 gram sample size as prescribed by the AOSA rules.				

*	Must be free of ryegrass, orchardgrass, Agrostis sp., Poa sp., brome, reed canarygrass, tall fescue, and meadow foxtail.
Must be free of the above listed contaminants based upon a 50 gram examination.	

(3) Seed meeting quality timothy seed standards will be tagged with a "quality timothy seed" tag.

**	Must be free of alfilaria (redstem filaree), bromus sp., Chickweed, Henbit, Poa sp., wild carrot, and prohibited noxious weeds listed in WAC 16-301-045 and restricted noxious weeds listed in WAC 16-301-050.
Must be free of the above listed contaminants based upon a 50 gram examination.	

(2) A quality timothy seed analysis certificate is the basis of determining if a lot meets the quality timothy seed standards. This certificate is issued by the certifying agency and represents a purity test, a 50 gram noxious, all weed, all crop exam, and a viability test.